

Report on the

ALABAMA HISTORICAL COMMISSION

STATE OF ALABAMA

Montgomery, Alabama



Department of Examiners of Public Accounts

50 North Ripley Street, Room 3201

P.O. Box 302251

Montgomery, Alabama 36130-2251

www.examiners.alabama.gov

Ronald L. Jones, Chief Examiner

State of Alabama
Department of
Examiners of Public Accounts

Telephone (334) 242-9200
FAX (334) 242-1775

Ronald L. Jones
Chief Examiner

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July 14, 2010

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Mr. Sanderford:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Alabama Historical Commission** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Alabama Historical Commission**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,



Ronald L. Jones
Chief Examiner

Examiner
Glenn Davis

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PROFILE

Purpose/Authority

Commission Functions under State Law

The Alabama Historical Commission was established by Act 169, *Acts of Alabama 1966* in response to the passage and implementation of the National Historic Preservation Act of 1966. The commission operates under the provisions of the *Code of Alabama 1975*, Sections 41-9-240 through 41-9-262. The commission's mission is to preserve, promote and protect Alabama's historic places, sites and objects.

Unlike the Department of Archives and History, which primarily deals with preservation of artifacts and records, the Historical Commission is primarily concerned with the preservation of buildings and archaeological sites of historical significance. State law makes the commission responsible for the following activities.

- **Acquisition and preservation of historic properties and education of the public on historic sites in Alabama.** The commission owns, operates, or has custody of historic sites located throughout Alabama. (See the appendices of this report for a list of the commission's properties.)
- **Underwater Cultural Resources Act** - The commission, in conjunction with the Alabama Department of Conservation and Natural Resources, administers Alabama's Underwater Cultural Resources Act, the provisions of which are found at the *Code of Alabama 1975*, Sections 41-9-290 through 41-9-299.2.
- **Human Burial Remains** - The commission is also tasked by the *Code of Alabama 1975*, Section 13A-7-23(1)(d) "to promulgate rules and regulations for the issuance of a permit and may issue a permit to persons or companies who seek to restore, preserve or relocate human burial remains, human skeletal remains, funerary objects, or otherwise disturb a place of burial."

Commission Functions under Federal Law **(State Historic Preservation Officer (SHPO))**

The National Historic Preservation Act of 1966 gave each state the right to act as the federal government's agent in implementing a national historical preservation program contemplated by the act. The act established a National Register of Historic Places as a means to designate which places should be recognized and gave states the right to review federal projects that could affect National Register eligible sites. Federal projects are defined as those that use federal funds or require federal licenses. The United States Department of Interior was designated as the federal agency to administer the act. The federal government's point of contact with the states is someone designated in each state as the State Historic Preservation Officer (SHPO).

Frank White, Executive Director of the Alabama Historical Commission is the governor's appointee to serve as the SHPO for Alabama. SHPO functions are not prescribed in state law for the Alabama

Historical Commission but are carried out by its staff. Federal agencies must consult with the SHPO when identifying historic properties and when assessing the effects of any federally involved undertaking on historic properties.

The National Historic Preservation Act of 1966, as amended, requires that federal undertakings take into account the effect on any district, site, building, structure, or object included in or eligible for the National Register of Historic Places. This process, commonly known as Section 106, has three main goals:

1. Identify historic and prehistoric properties eligible for or listed in the National Register.
2. Assess the effects of the federal undertakings on properties eligible for or listed in the National Register
3. Seek ways to avoid, minimize, or mitigate any adverse effects on historic properties

A federal undertaking can include an undertaking done directly by a federal agency, an undertaking brought about by the granting of funds by a federal agency, or an undertaking permitted by a federal agency.

Examples of federal activities subject to the act include construction, rehabilitation and repair projects, demolition, licenses, permits, loans, loan guarantees, grants, federal property transfers, and many other types of federal involvement. When one of these activities has the potential to affect historic and prehistoric properties, a Section 106 review must be completed.

The commission advises federal agencies regarding the potential of their undertakings to affect historic properties in Alabama. When both agencies agree that there is, or could be, an adverse effect to a historic property, three alternatives are available: avoid the effect, minimize the effect, or mitigate the effect (compensation). The federal agency is then required to obtain a letter of clearance from the State Historical Preservation Officer before proceeding with its undertaking.

Commission Characteristics

Members and Selection	<p>21 members, including the following</p> <p>Seven ex-officio members:</p> <ul style="list-style-type: none"> • Governor • Lieutenant Governor • Speaker, House of Representatives • Director, Department of Archives and History • Director, Bureau of Tourism and Travel • Commissioner, Dept. of Conservation and Natural Resources • Director, Building Commission – Technical Staff <p>Ten (10) members appointed by the governor from nominees representing:</p> <ul style="list-style-type: none"> • 1 from the University of Alabama • 1 from Auburn University • 1 from the University of South Alabama • 1 from Troy University • 1 from the University of Montevallo • 1 from the Alabama Council of the American Institute of Architects • 1 from the Alabama Historical Association • 1 from the Alabama State Chamber of Commerce • 1 from the Alabama Farmers Federation • 1 from the Alabama Archaeological Society <p>Three (3) members appointed by the governor from the state-at-large.</p> <p>The chairman (1) of the Restructured Historic Chattahoochee Commission, who serves as an ex officio policy making member of the commission.</p> <p><i>Code of Alabama 1975</i>, Section 41-9-243</p>
Term	<p>6-year term</p> <p><i>Code of Alabama 1975</i>, Section 41-9-243</p>
Qualifications	<p>Members who are not ex officio members are to be appointed based upon their demonstrated interest in and concern about the preservation of Alabama history.</p> <p><i>Code of Alabama 1975</i>, Section 41-9-243</p>
Racial Representation	<p>No specific racial requirement. No black members currently serving on the commission.</p> <p><i>Code of Alabama 1975</i>, Section 41-9-243</p>

Other Representation	The law requires that the membership of the commission shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. <i>Code of Alabama 1975</i> , Section 41-9-243
Compensation	No compensation. Members are reimbursed for expenses incurred in the discharge of their duties in the same amounts as afforded to state employees and officers. <i>Code of Alabama 1975</i> , Section 41-9-244
<u>Operations</u>	
Administrator	Frank White, Executive Director Annual Salary - \$129,374.88 The executive director is an unclassified employee within the state's Merit System who is was appointed by the commission and who serves at the commission's pleasure. The commission sets his compensation, with the approval of the governor and the State Personnel Board. <i>Code of Alabama 1975</i> , Section 41-9-247
Location	468 South Perry St. Montgomery, AL 36130 (Historic Teague and Rice-Semple-Haardt House) Office Hours: 7:30 AM – 5:00 PM
Employees	69
Legal Counsel	William Little, Assistant Attorney General Employee of the Attorney General's Office

Internet Presence	<p>The board maintains a website at http://www.preserveala.org. The website contains information on:</p> <ul style="list-style-type: none"> • Preservation Programs • Historic Sites • Grants and tax credits • Volunteer opportunities • AHC archeological survey and testing policy • AHC archeological programs • Educational opportunities • Information on the National Historic Preservation Act of 1966, known as Section 106
Attended Board Member Training	<p>Frank White – Executive Director Daniel Bennett – Commission Chair Attended January 21, 2010 Training Session</p>
<u>Financial</u>	
Source of Funds	<p>Appropriations from the General Fund and the Confederate Pension Fund, Gift Shop Sales, Gifts, donations, & grants, Investment income</p>
State Treasury	<p>Yes, Special Revenue Funds 0365, 0422, 0785</p>
Required Distributions	<p>Sales taxes collected on merchandise sales at the various historic sites are transferred to the Alabama Department of Revenue.</p> <p><i>The Code of Alabama 1975</i>, Section 40-23-2(1)</p>
Unused Funds	<p>Unexpended grants, gifts, donations, etc. are retained at year end.</p> <p>Unexpended General Fund appropriations revert to the General Fund at year end.</p>

SIGNIFICANT ISSUES

Significant Issue #2010-1 - The Alabama Historical Commission faces unknown future liabilities due to its land ownership at Fort Morgan - The Alabama Historical Commission, as a working interest owner in the production of oil and gas in a portion of Mobile Bay, may be liable for a part of the eventual cost of abandonment/plugging of the production wells. The amount of this liability cannot presently be determined as the unit is expected to produce for an estimated additional 20 years. At its May 5, 2010 meeting, the commission voted to reserve \$1.3 million to fund the final capping of the wells and any future AHC needs. The following information is presented as background for this issue.

On October 24, 1969 the state of Alabama, through the Department of Conservation Oil and Gas Lease No. 350 entered into a lease agreement with Mobil Oil Corporation for Tract No. 95, North Central Gulf Area, containing 4,322 acres, more or less, as shown on plat styled "State of Alabama Chart of Submerged State Land, Oil Lease Tracts, North Central Gulf Area" prepared by the State of Alabama, Department of Conservation, Engineering Section, and dated March, 1956. The purpose of this lease was for the purpose of exploration and potential production of, among other things, oil and gas.

In 1982, in Order 82-344, the Oil and Gas Board on the Petition by Mobil, established the Lower Mobile Bay Mary Ann Unit as a partial fieldwide unit. As the owner of the tract around Ft. Morgan, the Alabama Historical Commission did not lease its lands and was, therefore, "force unitized." A forced integrated unit or forced pooled unit refers to a drilling unit in which all nonconsenting owners have been ordered by the Board to integrate or pool their tracts and interests and develop them in accordance with law and the rules and regulations of the Board.

As a result of this forced unitization, the Alabama Historical Commission became a "working interest owner" in this endeavor. As such, the Alabama Historical Commission received a monthly payment percentage of 1/8 related to its 512.44 acre parcel contained in the fieldwide unit (much like a royalty but legally different) until payout (retirement of startup costs) occurred in 2008. Once payout occurred, all proceeds associated with the Alabama Historical Commission's interest (a 0.0124017 interest) were paid to the Alabama Historical Commission with the exception of some expenses which are cost-netted out each month. The Alabama Historical Commission must also share in the costs of production, maintenance, and eventual abandonment/plugging of the wells.

The Alabama Historical Commission has contacted the State Oil and Gas Board of Alabama and Exxon Mobil Corporation in an effort to estimate the future costs of well abandonment/plugging and whether the Commission's share of the costs for plugging and abandonment would be deducted from the Commission's share of revenues or whether the Commission would be required to disburse to the Unit Operator the Commission's share of the costs.

In a letter dated January 21, 2010, S. Marvin Rogers, Counsel for the State Oil and Gas Board of Alabama replied to Lisa Jones, Finance Director of the Alabama Historical Commission the following:

The Lower Mobile Bay Mary Ann Unit is a deep, highly productive offshore unit with several wells in the unit area. Based on our discussions, Exxon is following the normal accepted practice of disbursing to the Commission its share of revenues after deducting the Commission's share of costs. The Unit should produce for another 20 or so years. Whenever the unit and field are depleted, the Unit Operator will plug and abandon the wells and the field. The question you have posed to me is whether the Commission's share of the costs for plugging and abandonment will be deducted from the Commission's share of revenues or whether the Commission is required to disburse to the Unit Operator the Commission's share of the costs.

The provisions of the *Code of Alabama* addressing fieldwide unitization are not entirely clear on this issue. Nevertheless, some provisions appear to allow the operator to collect from the forced unitized parties their share of the costs of unit operations (The *Code of Alabama 1975*, Section 9-17-83). Under these code provisions, the Unit Operator, Exxon, could arguably claim that the Commission must pay its share of the costs of plugging and abandonment. However, under common law principles of tenancy in common, the Commission is a co-tenant with Exxon. As a co-tenant, Exxon has the right to utilize properties that are subject to co-tenancy in order to make a profit. Under that legal principle, Exxon may charge its co-tenants its share of the costs but may not require the Commission, as co-tenant, to pay any costs. This common law principle stated as follows: a tenant in common who places improvements on the common property may not compel the co-tenants to contribute to the cost of the improvement.

It is my understanding that Unit Operators generally do not attempt to compel forced unitized parties like the Commission to pay their share of well costs including costs of plugging and abandonment of wells.

As I stated above, under the code provisions relating to fieldwide unitization, the Unit Operator arguably may charge costs against the Commission, but under the co-tenancy theory, the Unit Operator may only deduct the Commission's share of costs from revenues received by the Unit Operator.

Based on these laws and principles, I believe it is unlikely that the Unit Operator would claim plugging and abandonment costs from the Historical Commission. Obviously, the best solution would be for the Commission and Exxon to work out an agreement by which Exxon would simply withhold some of the Commission's share of revenues.

A letter dated February 25, 2010 to Lisa Jones, Finance Director of the Alabama Historical Commission from Gwendolyn Dawson, counsel for Exxon Mobil Corporation states that, "...all working interest owners are responsible for the payment of their share of working interest expenses. No one knows exactly what the final abandonment expenses will be for the Mary Ann Unit. As Unit Operator, ExxonMobil estimates those costs periodically, but even those estimates change over time. As a working interest owner, the Historical Commission should be prepared to pay for its eventual share of abandonment costs..."

Significant Issue #2010-2 - The commission does not invest funds held in its Historic Preservation Investment Fund (Fund #0785) although the commission apparently has the authority to do so. Special Revenue Fund 0785 in the State Treasury holds available balances not

immediately needed by the commission. On October 1, 2009 the balance in this fund, which includes receipts from oil and gas royalties, was \$7,174,780.62.

The *Code of Alabama 1975*, Section 41-9-249(7) (a) grants the commission the power to “acquire, receive and take title to, by purchase, gift, lease, devise or otherwise, and to own, to hold, keep and develop, and to sell, transfer, convey, lease, and assign to any person or otherwise dispose of property of every kind and character, whether real, personal or mixed, whether tangible or intangible, whether in trust or otherwise, together with any and every interest therein, in furtherance of the lawful objectives of the commission.

In addition, the *Code of Alabama 1975*, Section 41-9-249(7) (c) grants the commission the power to “...convert such property or any portion thereof into securities or other forms of property and use the proceeds therefrom, including any interest on investments, as it deems will best promote the objectives of the commission”.

Also, the Attorney General concluded in an opinion that the executive director of the Alabama Historical Commission, with authority from the commission, may invest moneys in the special fund to further the purposes for which the money is held. (See AGO 92-160)

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

PRIOR FINDING 2007-04 -The prior finding stated that there is an apparent continuing shortage of funds for preservation and utilization of state-owned/operated historic sites. Forty-six (46) of one hundred seventeen (117) respondents to questionnaires mailed by the Examiners of Public Accounts to commission members, donors to the Alabama Historical Commission, and donors to the Alabama Historical Commission Foundation, as well as statements made by ten (10) members of the commission’s staff, all indicated that shortage of funds is a significant issue facing the commission. The commission’s inability to maintain its historic properties and the loss of staff are mentioned as results of the shortage of funds.

In addition, twelve (12) of one hundred seventeen (117) respondents to questionnaires and three (3) staff members expressed concern about the expenditure of funds by the Alabama Historical Commission at its historic properties/sites.

Administration of Historic Sites in Alabama is Unusual

The expense of administration of state controlled historic sites appears to fall heavily on the commission and the state, when compared to other states. The commission’s senior architectural historian has developed a report on the administration of state-owned historic sites outside Alabama, especially in the Southeast. The report states that, “although general patterns of similarity exist, ... Alabama is unusual in that virtually *all* state-owned/state-run historic sites are wholly administered through a small, independent state agency, the Alabama Historical Commission, which also functions as the state historic preservation office. (State historic sites *not* administered by the AHC include the independently-managed Saint Stephens and Blakeley historical parks)”. The full text of this report can be found in the appendices.

The commission reported in its May 3, 2006 meeting that it is seeking alternatives to its ownership, governance, operation, and maintenance of historic properties/sites. Alternatives currently being considered include:

- Transfer of ownership, operation, maintenance, and associated costs to individuals, local preservation groups, local governments, etc.
- Operation/maintenance agreements with individuals, local preservation groups, local governments, etc. for operation and maintenance of the properties/sites where the costs are either borne entirely by the local entity or shared with the commission.

Questions to Attorney General Contemplated

The commission is developing a list of questions to pose to the Attorney General concerning the legality of these alternatives. Some of the questions are:

- Does the Alabama Historical Commission have the authority to transfer ownership of real estate, including historic land and structures, or personal property, including historic artifacts, to any public or private organization?
- May the recipient organization be required to prove its ability to take over, demonstrate its financial condition, provide a business plan, and demonstrate an understanding of and commitment to following standards of the Secretary of the Interior and the American Association of Museums?
- Would transfer of ownership have to be processed through the State Surplus Property system?
- Do past expenditures of federal, state, and local government capital funds or directed private funds impose any restrictions?
- May the Alabama Historical Commission impose protective covenants in perpetuity in transfer of ownership?
- Does the Alabama Historical Commission have the authority to rent or lease real estate, including historic lands and structures, or personal property, including historic artifacts, to any public or private organization?
- Does the Alabama Historical Commission have the authority to contract with any public or private organization to operate and maintain a historic site owned by the Alabama Historical Commission?

In addition to posing these questions, the commission is awaiting an Attorney General's opinion on issues related to the transfer of the General Joe Wheeler home (Pond Spring) to the Friends of General Joe Wheeler Foundation, a private, non-profit group dedicated to raising funds for the restoration of the site. The Friends of General Joe Wheeler Foundation has expressed an interest in receiving the property for the purpose of preservation and operation of the site as a museum.

Concerns about the Use of Funds

Concerns raised by the respondents to our questionnaires included the continuing decline of state-owned historic properties, unfinished projects at historic sites, and multiple studies being accomplished with no actual construction or repair taking place.

During the current review, the commission's accounting staff provided us with the following information for the period October 1, 2001 – April 16, 2006:

- Research, Planning and Design \$2,639,635
- Construction \$2,832,963

- Repairs and Maintenance \$ 616,990

The information provided on capital outlay expenditures (research, planning, design, and construction) is included in the appendices of this report.

Mark Driscoll, Head of the Historic Sites Division of the Alabama Historical Commission provided explanations of the capital outlay phases as follows:

- **Research** includes historical and archaeological investigations that aim to document the history of a site, including original and subsequent appearance and finishes of extant buildings. It also includes the location and functions of earlier support structures, which no longer exist, or evidences of prehistoric cultures that may have inhabited a site. It can include technical research to determine structural integrity or the appropriateness of restoration techniques. Research is listed among the powers and duties of the Alabama Historical Commission and is inherently mandated in the work of any history-based organization. It provides the framework for accurate restorations, interpretation, and sound restoration techniques.
- **Planning** establishes the short and long-term goals and priorities for restoration and interpretation of historic sites. It provides a basis for developing financially sustainable projects, for seeking funding and support for major restoration projects. Planning is essential for large, complex projects, which will be carried out over a long period and for which funds will be acquired in small increments. It provides agreed-upon goals and a series of steps that help to eliminate the wastefulness that occurs when ad hoc decisions are made based on personal preferences and without reference to the long-term goals or rational priorities. Many funding sources require evidence of solid planning. Planning is not required by state law or rule.
- **Design** consists of the architectural or engineering drawings and specifications that direct the work of construction/restoration contractors. Alabama law or Building Commission rules mandate professional design services for public and state owned structures.
- **Construction** is the implementation phase of plans and carries out the professionally developed designs and specifications based on solid, factual research. Construction is not required by state law or rule.

Driscoll further explained that planning projects can include design services and that design services may also include needed research not done in earlier phases. The proportion of planning, research and design in relation to construction varies depending on the period selected for review. For example, a period which includes implementation of plans created in an earlier period would show a higher percentage of construction costs relative to other costs.

STATUS - 2008

Funding continues to be a significant issue to the commission. Nine (9) of twelve (12) respondents to questionnaires mailed by the Examiners of Public Accounts to commission members and the commission's executive director indicated that a shortage of funds remains a significant issue facing the commission. The commission's inability to maintain its historic properties and the loss of staff are mentioned as results of the shortage of funds.

During this review, examiners visited nine (9) of the historic sites owned or maintained by the Alabama Historical Commission. The examiners noted repair/restoration work either completed or in progress at seven (7) of the sites. The examiners' observations revealed that while all sites need further repair/restoration work, the Fort Morgan site appeared to have the most pressing need for restoration/repair work to address stabilization and repair of the site as well as addressing issues of safety for visitors. Examiners observed large cracks running the entire length of the brick arches leading into the fort as well as cracks in the fort walls at numerous locations, limestone deposits on the fort's walls and floors due to water seepage from earthen top of the fort (the deposits on the floor create areas of slippery footing), and rusted, corroded metal stairways and handrails. One set of metal handrails had deteriorated to the point of being extremely loose, thereby creating a possible hazard for visitors as well as staff members.

In response to a question concerning the commission's plans for maintenance, restoration, and/or repair of the historical properties owned/maintained by the AHC, the commission's executive director stated that the commission has a list of projects for most sites ready to undertake when funding becomes available. He also stated the commission would do as much as possible to try to leverage those funds with federal grants and donations.

The executive director reported that the commission has repair/restoration projects underway at several sites and is in the process of preparing for additional projects to begin (SEE APPENDICES). He stated that the repair/restoration projects are completed in phases to ensure that repairs/restorations are accomplished in the proper order (i.e. stabilization of a structure's foundation prior to restoration of the structures interior walls/decorations) and to effectively utilize the available funding. He further stated that when the current phases or repair/restoration are completed there will be additional work needed to fully complete the projects.

The executive director stated that the commission was able to partner with a local support group, the Friends of General Joe Wheeler Foundation, to purchase a new tractor for the Pond Spring location and succeeded in having equipment and labor donated by a local developer to relocate a 32 pounder (3.5 ton) cannon at Fort Morgan.

The executive director stated that the commission has contracted with the Alabama Department of Corrections for inmate labor to reduce the cost of repairs/restoration at the commission's historical sites.

The executive director also stated that the commission has been able hire additional staff during the last year but still is in dire need of additional employees. He listed approximately thirteen (13) positions which need to be filled immediately, with additional employees needed when sites are restored/reopened.

Request for Attorney General's Opinion Withdrawn

According to the executive director, the commission withdrew its request for an Attorney General's Opinion concerning the divestiture of properties. He stated that the Attorney General informed the commission that no opinion would be issued based upon hypothetical situations and that the commission would have to have an agreement in place for the transfer of property at which time, the Attorney General could address the specifics of the agreement.

STATUS – 2010

Funding continues to be a significant issue to the commission. Nine (9) of ten (10) commissioners who responded to questionnaires mailed by the Examiners of Public Accounts and the commission's executive director indicated that a shortage of funds remains a significant issue facing the commission. The commission's inability to maintain its historic properties and the loss of staff are mentioned as results of the shortage of funds.

During a meeting of April 30, 2010, the commission's executive director stated that the commission has many historic sites to staff and maintain. The current staffing level (69 employees) is approximately 65% of what it was during June 2005 (103 employees). He stated that the commission does not have enough personnel to staff the historic sites and to maintain them at the levels needed and does not have the funding necessary to hire them.

GRANT PROGRAMS

Hurricanes Katrina and Rita Recovery Grants – Following hurricanes Katrina and Rita, Federal Emergency Management Agency (FEMA) recovery grants were available for buildings or sites listed in, or determined to be eligible for listing in, the National Register of Historic Places. The commission assisted in eligibility determination and continues to monitor grant compliance while repairs and restoration continues.

The commission reported that it has received \$2,450,000 in federal funds for the Hurricane Katrina grant program, which has been extended by the National Park Service to end on March 31, 2011. The commission reported in a letter dated April 29, 2010 that \$806,219.34 remains unexpended.

Certified Local Government Grants - Certified Local Government Grants are federally funded. Applications for Certified Local Government grants are accepted from cities that have been approved by the National Park Service as Certified Local Governments. These are cities that have met federal requirements for conducting historic preservation programs locally. Criteria are based on identified priorities in the program's Strategic Plan.

Alabama Cultural Resources Preservation Trust Fund Grants - *According to the commission, these grants are not currently being made.* These grants are funded with income generated by the Alabama Historic Preservation Trust Fund, which is managed by the Retirement Systems of Alabama. The commission stated that the value of the fund recently dropped in value due to a poor performing investment. The commission stated that the fund should be allowed to grow until it reaches a total market value of \$10 million, which is an amount that could be reasonably expected to sustain a \$500,000 per year grant program. The commission stated that administering a smaller grant program would be an inefficient use of an already stretched staff. At September 30, 2009, the market value of the Alabama Cultural Resources Trust Fund was \$7,977,695.24.

The Alabama Resources Preservation Trust Fund was created with the proceeds of a 1991 settlement agreement between the commission and Transco Energy Company. The commission stated that the Alabama Cultural Resources Preservation Trust Fund grant program includes grants for historic resource surveys for both structures and archaeological resources; for preparation of nominations from the resource surveys to the National Register of Historic Places; for public awareness and education,

and for planning activities for downtowns and historic neighborhoods, as well as for developing local historic preservation plans and ordinances. When the program is operable, grants are also made for the development of historic structures reports and for architectural plans for building rehabilitation. All buildings which receive “brick and mortar” grants must be eligible for the National Register of Historic Places. Any governmental entities (cities or counties) or private, non-profit organizations such as historical societies are eligible. The commission uses scored applications to award Alabama Cultural Resources Preservation Trust Fund grants. Specific criteria must be met.

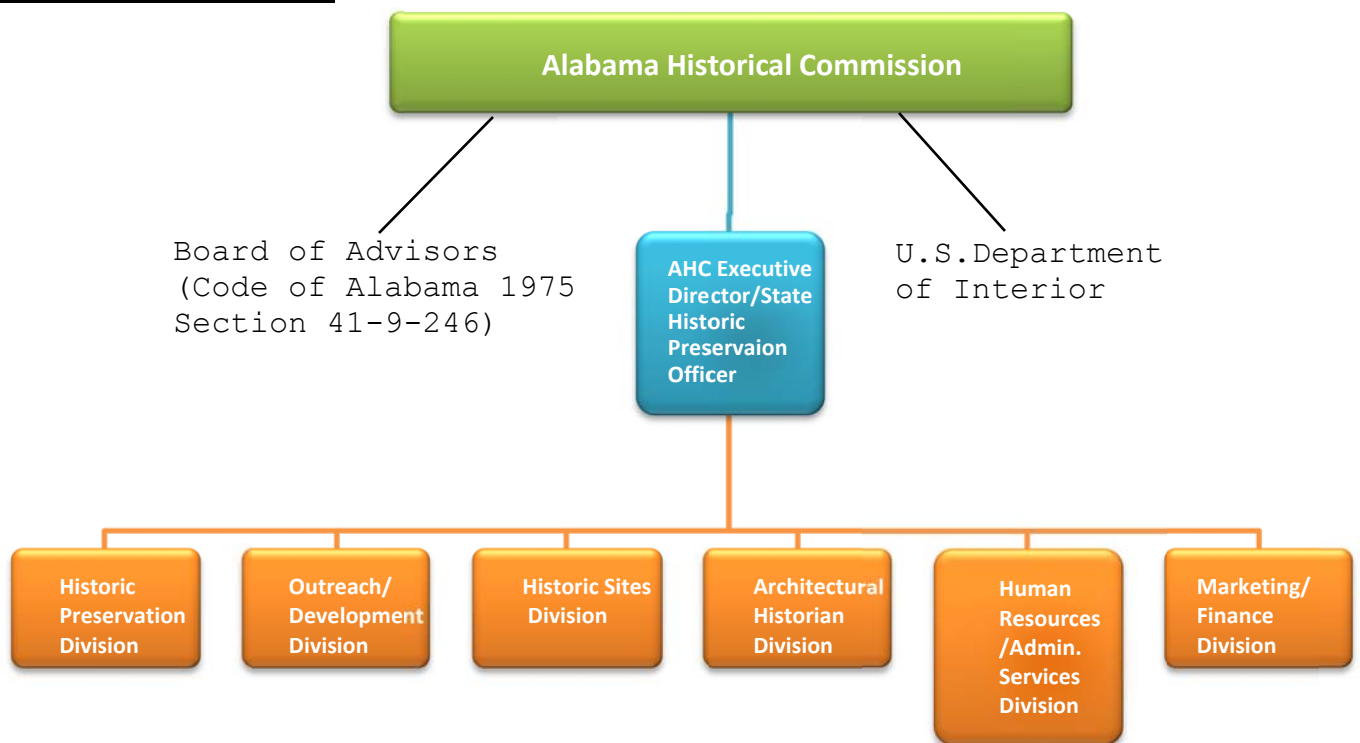
Appropriation ‘Line item’ Grants - The commission administers “line item” grants funded by amounts restricted for specific purposes in state appropriation legislation. Eligibility criteria to receive grants varies by type of grant.

CEMETERY PERMITS

The commission issues permits to authorize cemetery relocation or extensive cleanup of cemeteries. The permits are issued under authority of the *Code of Alabama 1975*, Section 13A-7-23.1, which states, “The Alabama Historical Commission, to provide for the lawful preservation, investigation, restoration, or relocation of human burial remains, human skeletal remains, or funerary objects, shall promulgate rules and regulations for the issuance of a permit and may issue a permit to persons or companies who seek to restore, preserve or relocate human burial remains, human skeletal remains, funerary objects, or otherwise disturb, a place of burial.”

A permit is issued in the form of a letter signed by the executive director of the Alabama Historical Commission.

ORGANIZATION



Structure and Duties

The commission's staff consists of six (6) divisions having 69 employees at eleven (11) locations across the state.

Historic Preservation Division

The Historic Preservation Division Manager traditionally serves as the Deputy SHPO and administers federal and state programs. The division's duties include:

- Logging, tracking, and evaluating approximately 2,000 federal projects annually to determine impact on Alabama's cultural resources (also known as Section 106)
- Reviewing federal tax credit projects and structure rehabilitation plans for Section 106.
- Managing the National Register Program, recommending determinations of National Register eligibility for structures, maintaining the structural survey database
- Administering the Alabama Register and the state's cemetery permits, Register, and education programs
- Managing the Hurricane Katrina & Rita Grant program jointly with the Finance and Marketing Division
- A State Archaeologist within the division:
 - ❖ Supervises and participates in Section 106 reviews
 - ❖ Assists the commission's site managers in the preservation of archaeology at the commission's historical sites.
 - ❖ Develops and participates in programs to educate the public on Alabama Archaeology
 - ❖ Acts as liaison between the Alabama Historical Commission and the Council on Alabama Archaeology
 - ❖ Encourages preservation of maritime resources by advising the Maritime Advisory Council, granting and monitoring underwater permit requests
 - ❖ Develops a statewide maritime management plan and administers the Alabama Underwater Cultural Resources Act.

Historic Sites Division

The Historic Sites Division manages the agency's 22 historic sites, 11 of which are staffed. The divisions include:

- Managing capital outlay projects including capital maintenance and architectural restoration
- Overseeing development of interpretive plans, research projects, and exhibit designs
- Managing, caring for, and interpreting site-related collections of historic objects
- Providing professional collections care/management, educational programming, exhibit development, staff/volunteer training, and architectural preservation.
- Developing and presenting tours, informational and educational programs for school age children, and reenactments for over 360,000 visitors per year
- Performing housekeeping and grounds/maintenance work

Outreach/Development Division

The Outreach/Development Division develops and maintains relationships and performs educational functions with constituency groups.

The division's duties include:

- Conducting educational projects and other educational activities
- Developing and maintaining contacts with local historical societies, groups, and individuals
- Coordinating news conferences and media visits; writing and distributing news releases and media advisories
- Producing the *Preservation Report* newsletter, reaching an audience of 5,000 and producing the *Advocate*, reaching 700 people three times a year
- Serving as agency media contact, managing the AHC website, monitoring preservation issues and providing officials with AHC perspectives
- Providing public presentations and workshops
- Coordinating the efforts of the Black Heritage Council
- Working with heritage tourism and heritage area development, including the Black Belt National Heritage Initiative
- Overseeing the historic marker program
- Overseeing Certified Local Government grants
- Writing grant applications and assisting with fundraising efforts
- Managing and coordinating the Certified Local Government program and assisting local communities develop preservation programs
- Providing assistance to local preservation programs and to Your Town, Scenic Byways, Alabama Communities of Excellence and other organizations.

Architectural Historian Division

The Architectural Historian performs the following functions:

- Documenting, researching, writing and promoting awareness of Alabama's architectural heritage to local, regional and other audiences
- Serving as a subject-matter expert and consultant for commission's staff, the general public, and professional counterparts
- Working with endangered landmarks and administering the commission's easement program
- Serving as commission's trustee for Alabama Trust for Historic Preservation Endangered Properties Emergency Fund
- Conducting architectural and historical research and assisting with in-house preparation of Alabama and National Register nominations for architecturally significant properties or sites of exceptional value
- Managing Places in Peril initiative (jointly with Alabama Trust for Historic Preservation) as well as Preservation Scoreboard (jointly with University of West Alabama)
- Generating web site & other outreach information as appropriate

Marketing and Finance Division

The Marketing and Finance Division is responsible for overall financial management, including the annual budget and an investment fund of \$7 million. The division's functions include:

- Developing the annual budget and spending plan for general operations and capital outlay
- Development and compliance with the SMART planning initiative
- Fiscal administration including budget analysis, cash management and financial reporting
- Monitoring of Alabama Cultural Resources Preservation Fund
- Administration of agency's purchasing function

- Preparation and monitoring of annual federal grant application and corresponding reports
- Execution and monitoring of state and federal contracts and grants
- Implementing control systems for federal programs to insure compliance and reimbursement
- Developing and managing agency's marketing efforts to increase funding for historic preservation including initiatives at retail outlets, including the State Capitol.
- Serving as liaison with Department of Finance, Comptroller's Office, Legislative Budget Office, Executive Budget Office, State Treasurer's office, State Purchasing and the National Parks Service Grant Office.

Human Resources and Admin Services Division

This division oversees agency personnel services by:

- Providing assistance in the hiring, performance appraisal, and disciplinary process
- Producing monthly Bureau of Labor reports
- Preparing quarterly Department of Industrial Relations wage reports
- Overseeing payroll functions and property inventory programs
- Coordinating agency recycling program reporting
- Serving as agency training coordinator
- Managing main office maintenance and supplies
- Managing agency Information Technology program.

Overlap/Similarity of Duties with Duties of Other Agencies

Department of Archives and History

Both the Alabama Historical Commission and the Alabama Department of Archives and History are engaged in preserving Alabama's history. The commission's preservation activities are primarily focused on the preservation of historical sites while the department's preservation activities focus on preservation of historical records. Both agencies are engaged in interpreting Alabama's history to the public. Both agencies are engaged in collecting historical artifacts and presenting them to the public, the commission through its historical sites and the department through its museum. Both agencies are engaged with historical societies at the local level.

State Historic Preservation Officer

The State Historic Preservation Officer (SHPO) administers the national historic preservation program at the state level, reviews National Register of Historic Places nominations, maintains data on historic properties that have been identified but not yet nominated, and consults with federal agencies during Section 106 reviews(36 CFR 800) . SHPOs are designated by the governor of their states or territories. Under 36 CFR 800 Federal agencies must consult with the appropriate SHPO when identifying historic properties and assessing the effects of a federally involved undertaking on historic properties. The Executive Director of the Alabama Historical Commission normally serves as the State Historic Preservation Officer.

Department of Economic and Community Affairs

The administration of the commission's Main Street Program, which had been suspended but is now in the process of being reinstated, is similar to programs of the Alabama Department of Economic and

Community Affairs (ADECA). The commission's Main Street Program is a downtown revitalization program for cities with a population of 50,000 or less. The program promotes progressive marketing and retail management techniques that focus on revitalization and building a positive downtown identity based upon the historic character of a city's deteriorating commercial districts. Public and private resources are brought together to carry out this effort.

The Community Development Block Grants (CDBG) program administered by ADECA includes planning funds available for all eligible communities to conduct planning activities for downtown revitalization.

In some other states, the Main Street Program at the state level is administered by offices of economic and community development. Information obtained from the National Main Street Center indicates that placement of the offices of Main Street Programs within state governments includes:

- 25 programs located in Offices of Economic and Community Development
- 8 programs located in State Historic Preservation Offices
- 7 programs located in Non-Profit 501(c)(3) organizations
- 1 program located in the Office of the Lt. Governor
- 1 program located in a Department of Rural Affairs

Department of Conservation and Natural Resources

The commission's activities include operating historical sites for the enjoyment of the public, development and maintenance of the sites, repair and maintenance of structures, etc., planning and oversight of capital projects for historic sites, collection of admissions, and sale of gifts. These duties are similar to duties of the Alabama Department of Conservation and Natural Resources, State Parks Division, which is responsible for the operation and maintenance of state parks. The commission and the department jointly administer the state's Underwater Cultural Resources Act, which seeks to protect historic underwater sites and artifacts. The Commissioner of the Department of Conservation and Natural Resources is an ex officio member of the Alabama Historical Commission.

PERSONNEL

Schedule of Employees By Merit System Classification/Sex/Race					
	#	B/M	W/M	B/F	W/F
<u>Unclassified</u>					
Executive Director	1		1		
<u>Classified</u>					
Special Projects Coordinator	1				1
State Archaeologist	1				1
Clerk	1				1
Administrative Support Asst. III	2			1	1
Account Clerk	1				1
Senior Accountant	1				1
Canteen Clerk	1				1
Capitol Receptionist	1	1			
Retired State Employee (Parks Worker)	1				1
Administrative Services Officer II	1			1	
Architect	1			1	
Cultural Resources Assistant	1		1		
Museum Aide	1		1		
Historic Artisan	2	1	1		
Cultural Resources Coordinator	7		3		4
Cultural Resources Specialist	5		2	1	2
Cultural Resources Coordinator, Sr.	10		3		7
Historical Commission Div. Mgr.	4		1		3
Historical Commission Sr. Expert	1		1		
Archaeologist	1				1
Archaeologist, Senior	1		1		
Curator, Coordinator	2				2
Departmental Marketing Specialist	1		1		
Executive Secretary	1				1
Parks Worker	2		1		1
Laborer	11		6	1	4
Utility Laborer	1		1		
Grounds Worker	1	1			
Maintenance Repairer	2	1	1		
Mason Lead Worker	1		1		
Maintenance Repair Supervisor	1		1		
Total	69	4	27	5	33

B/M=black male, W/M=white male, B/F=black female, W/F=white female,

Legal Counsel

William D. Little, Assistant Attorney General – general counsel, employee of the Attorney General’s Office

Olivia D. Martin, Assistant Attorney General – real estate consultant, employee of the Attorney General’s Office

B. Kinsey Green, Jr., Special Assistant Attorney General – private counsel for acquisition of lands by eminent domain at Old Cahaba site.

SMART BUDGETING

FY 2009

GOALS			COMMENTS	
Goal 1: Reduce square footage requiring restoration at historic sites by 20% by 2012 (367,515 to 294,012 square feet). FY 2007 baseline is 367,515 square feet requiring restoration out of 400,936 square feet total.			Appears appropriate	
Goal 2: Preserve AHC-owned historic places and artifacts by increasing resources for care and maintenance by \$807,286 by 2012 (from \$636,289 in FY 2007 to \$1,443,575 in FY 2012).			Appears appropriate	
Goal 3: Increase number of school aged visitors at AHC-owned historic sites by 5% by 2012 (83,085 school aged visitors to 87,240 school aged visitors). Baseline established in FY 2008.			Appears appropriate	
Goal 4: Increase AHC generated retail and admission revenues by 40% by 2012 (\$475,150 to \$665,210). Baseline established in FY 2007.			Appears appropriate	
OBJECTIVES	UNIT OF MEASURE	TARGET	REPORTED PERFORMANCE	COMMENTS
Objective 1: Reduce square footage requiring restoration by 6.0% (358,802 square feet to 336,948 square feet).	Total square footage requiring restoration	336,948 Sq. Ft	368,861 Sq. Ft	Appears appropriate
Objective 2: 100% of restoration work meets Secretary of Interior Standards.	% of restoration work that does meet standards	100%	100%	100 % of work is normally required to meet these standards. Therefore, the objective is not appropriate. The commission removed this objective in the 2010 SMART performance report.

FY 2009 (CNTD)

OBJECTIVES	UNIT OF MEASURE	TARGET	REPORTED PERFORMANCE	COMMENTS
Objective 3: Increase spending on maintenance at historic sites by 20% annually. (FY 07 is an anomaly due to one-time purchase of maintenance equipment at historic sites.	Funds spent	\$698,760	\$675,873	Not internally consistent. Objective statement is a percentage. Unit of measure and performance stated as dollars.
Objective 4: Increase AHC's retail revenue by 10% annually (\$287,977 to \$316,744). Baseline established in FY 2007.	Dollars of retail revenue generated	\$316,744	\$255,122	Appears appropriate
Objective 5: Increase AHC's admission revenue by 10% annually (\$408,764 to \$449,640). Baseline established in FY 2007	Dollars of admission revenue	\$449,640	\$348,084	Appears appropriate
Objective 6: Increase number of school aged visitors at AHC-owned historic sites by 1.25% (83,085 to 84,082). Baseline of 83,085 established in FY 2009.	Number of school aged visitors	84,082	74,431	Appears appropriate

FY 2010

GOALS			COMMENTS	
Goal 1: Reduce square footage requiring restoration at historic sites by 20% by 2012 (367,515 to 294,012 square feet). FY 2007 baseline is 367,515 square feet requiring restoration out of 400,936 square feet total.			Appears appropriate	
Goal 2: Preserve AHC-owned historic places and artifacts by establishing cyclical maintenance programs at all ten sites by 2014 to reduce the deferred backlog and expense of costly restoration and capital outlay projects.			Appears appropriate	
Goal 3: Increase number of school aged visitors at AHC-owned historic sites by 5% by 2012 (83,085 school aged visitors to 87,240 school aged visitors). Baseline established in FY 2008.			Appears appropriate	
Goal 4: Increase AHC generated retail and admissions revenues by 40% by 2012 (from \$475,150 annually to \$665,210 annually). Baseline established in FY 2007.			Appears appropriate	
OBJECTIVES	UNIT OF MEASURE	TARGET	REPORTED PERFORMANCE	COMMENTS
Objective 1: Reduce square footage requiring restoration by 15.93% (369,739 square feet to 310,856 square feet).	Total square footage requiring restoration	355,000	YEAR NOT COMPLETE	Appears appropriate
Objective 2: Add one complete cyclical maintenance program	Number of sites with programs in place	1	YEAR NOT COMPLETE	Objective statement not consistent with unit of measure.
Objective 3: Increase number of school-aged visitors at AHC-owned historic sites by 1.25% (84,105 to 85,137). Baseline established in 2008.	Number of school-aged visitors at historic sites	85,137	YEAR NOT COMPLETE	Appears appropriate

FY 2010 (CNTD)

OBJECTIVES	UNIT OF MEASURE	TARGET	REPORTED PERFORMANCE	COMMENTS
Objective 4: Increase AHC's retail revenue by 10% annually (\$275,114 to \$299,258). Baseline established in FY 2007.	Dollars of retail revenue generated	\$299,258	YEAR NOT COMPLETE	Appears appropriate
Objective 5: Increase AHC's admission revenue by 10% annually (\$287,088 to \$312,283). Baseline established in FY 2007.	Dollars of admission revenue	\$312,283	YEAR NOT COMPLETE	Appears appropriate

FINANCIAL INFORMATION

Description of Funds

The commission operates from the State Treasury in the following funds:

Historic Preservation (Operating) Fund

In 1990, the State Historic Preservation Fund #365 was established in the State Treasury by the *Code of Alabama 1975*, Section 41-9-255, as an "operating fund", into which all commission moneys are to be deposited and from which all expenditures of the commission are to be paid.

Historic Preservation Investment Fund

The Historic Preservation Investment Fund #785 was established in the State Treasury in 1995 under authority of the *Code of Alabama 1975*, Section 41-9-249(7c). Contrary to its title, balances in the fund are not invested. The fund is utilized primarily to segregate funds during the year that are reserved for use in budgeted capital projects. The fund is effectively an extension of the commission's operating fund, and its entire balance is closed into the commission's operating fund (365) at the end of each year.

Cultural Resources Preservation Trust Fund

The Cultural Resources Preservation Trust Fund (Fund #422) was created to hold funds paid to the commission by TRANSCO Energy Company as the result of the May 1991 settlement of Civil Action No. CV-90-H-1333-N in the United States District Court for the Middle District of Alabama, Northern Division. At issue were alleged acts and omissions of TRANSCO during its construction of gas pipelines in Alabama during 1987 and 1988. The court ordered payment to the commission of \$8,582,000, plus accrued interest, of which 50% was required by the order to be expended for the benefit of the affected counties. The court ordered that the commission's executive director be made trustee of the fund.

In June 1991, F. Lawrence Oaks, a previous Executive Director of the Alabama Historical Commission, and David G. Bronner, Secretary/Treasurer/CEO of the Employees Retirement of Alabama (ERSA) entered into an agreement whereby ERSA would act as investment adviser and custodian of the funds received by the commission from the TRANSCO settlement. Under the agreement, ERSA invests the TRANSCO settlement funds and distributes the income to the Alabama Historical Commission at the direction of its executive director. The agreement stipulates that ten per cent of the income will be added to the corpus of the fund, and that the corpus of the fund will remain intact and unavailable for distribution, unless the agreement is terminated.

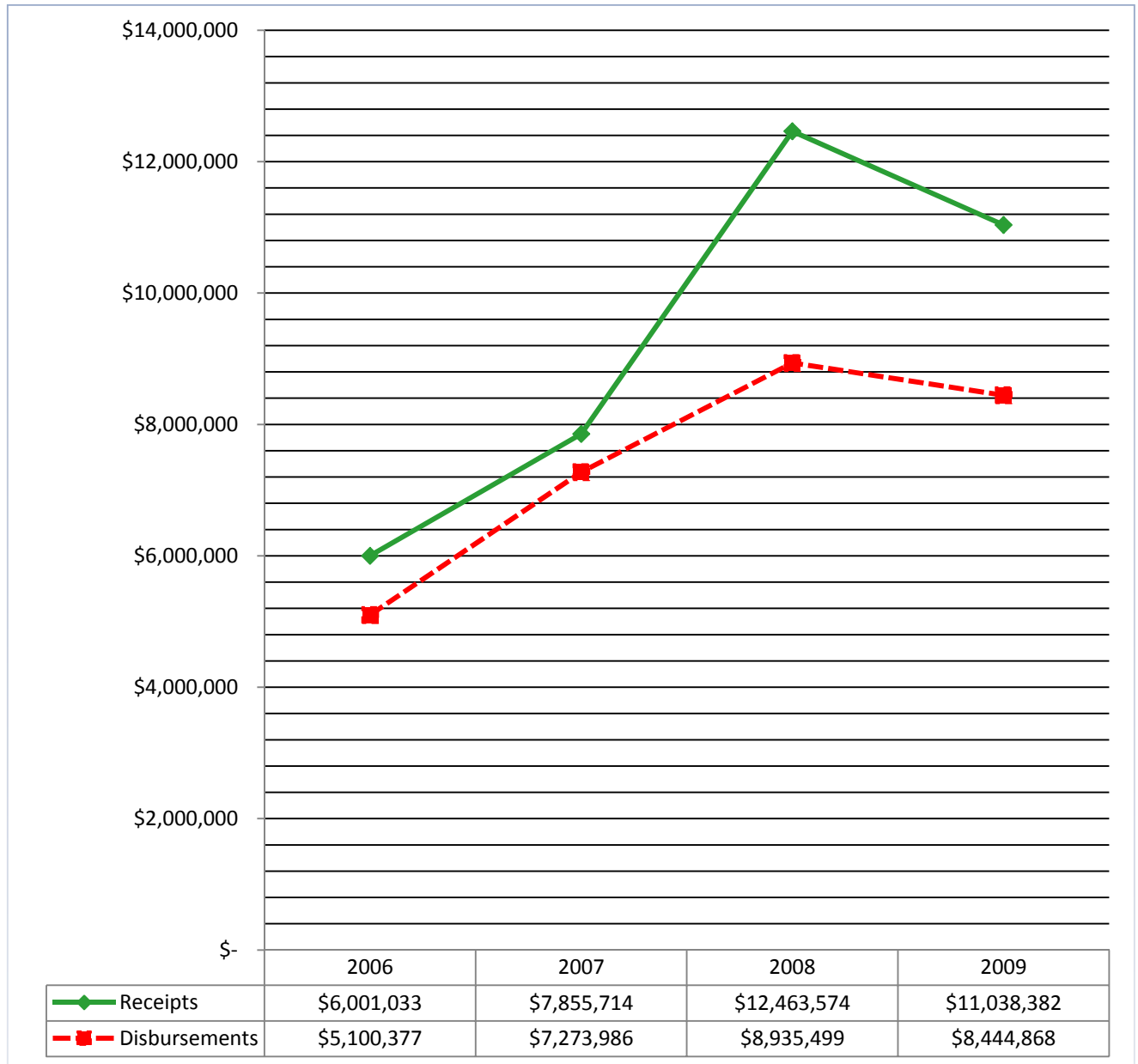
On September 30, 2009 the fund was entirely invested, and its book balance was \$7,943,688.65 (market value \$7,977,695.24). ERSA continues to hold and invest amounts in the fund.

Schedule of Receipts, Disbursements, and Balances (Operating Fund)

<u>Receipts</u>	2009	2008	2007	2006
Transfers from the state's General Fund	4,857,941.00	5,827,917.00	3,771,382.00	2,334,000.00
Transfers from Invested Funds	-	-	9,388.07	30,661.93
Other Receipts. (1)	6,180,440.76	6,635,657.29	4,074,943.84	3,636,371.46
Total	11,038,381.76	12,463,574.29	7,855,713.91	6,001,033.39
<u>Disbursements</u>				
Personnel Costs	2,964,283.35	2,765,060.29	2,606,722.27	2,308,441.42
Employee Benefits	1,108,096.54	998,398.26	937,912.13	780,537.21
Travel In-State	33,467.62	34,236.30	28,795.68	15,833.79
Travel Out-of-State	12,134.92	17,051.25	13,831.32	5,813.11
Repairs and Maintenance	136,816.76	52,004.82	44,926.38	60,852.12
Rentals and Leases	52,731.61	45,796.93	41,463.22	47,239.83
Utilities and Communications	280,663.88	257,812.22	239,706.33	229,022.12
Professional Services	437,084.07	489,260.13	443,319.51	419,705.01
Supplies, Materials and Operating Expenses	481,405.78	478,046.64	380,327.15	335,276.72
Transportation Equipment Operations	44,910.97	56,838.34	44,783.71	43,643.41
Grants & Benefits	1,836,289.67	2,932,207.84	997,857.77	181,818.39
Capital Outlay	943,620.48	619,765.61	1,233,935.06	623,529.41
Transportation Equipment Purchases	46,706.00	63,917.32	92,337.60	33,902.51
Other Equipment Purchases	66,656.01	125,102.67	168,068.05	14,763.87
Total	8,444,867.66	8,935,498.62	7,273,986.18	5,100,378.92
Excess (Deficiency) of Receipts Over Disbursements	2,593,514.10	3,528,075.67	581,727.73	900,654.47
Cash Balance at Beginning of Year	5,627,735.59	2,099,659.92	1,517,932.19	617,277.72
Cash Balance at End of Year	8,221,249.69	5,627,735.59	2,099,659.92	1,517,932.19
Reserved for Budgeted Capital Expenditures	(3,251,052.05)	(2,407,700.01)	(920,931.56)	(940,127.30)
Reserved for Unpaid Obligations	(1,466,387.44)	(804,498.13)	(801,700.65)	(558,004.51)
Unreserved Cash Balance at End of Year	\$ 3,503,810.20	\$ 2,415,537.45	\$ 377,027.71	\$ 19,800.38

(1) Included are oil and gas royalties from an Exxon-Mobil lease in Mobile Bay, federal grants, transfers from the Confederate Pension Fund, bond proceeds, admissions, resale of merchandise, and private donations

Operating Receipts vs. Operating Disbursements (Chart)



The chart does not include amounts received or disbursed that cannot be used for operations.

QUESTIONNAIRES

Commission Member Questionnaire

Questionnaires were sent to all twenty-one commissioners. Eleven (11) responses were received.

1. What are the most significant issues currently facing the Commission?

1. "I think it has too many properties to manage."
2. "Underfunding, Understaffing"
3. No Response (respondent stated they had not been on the Commission in over a year).
4. "Our old buildings require constant maintenance. We need more funds."
5. "One of the most significant issues continues to be the maintenance and operation of the historic sites."
6. "The most significant issue facing the Commission is the divided missions, whether to provide and administer programs statewide or to own, preserve, restore, and operate very diverse historic properties."
7. "Funding"
8. "Inadequate funding – the Commission's properties are difficult to maintain with declining resources (which were not adequate to begin with)."
9. "Insufficient staff and funding for upkeep of Historic Sites."
10. "Decreased budget and budget instability due to current economic climate, not enough support staff for the work necessary to do the Commission's work to the required standards, not enough budget to adequately preserve, maintain, and operate existing historic sites, and not enough budget to take on the burden of additional historic sites in order to fulfill mission of preserving Alabama's heritage."
11. "We receive too little money and have too little staff members to do our job."

2. What significant changes has the Commission made during the last year?

1. "None that I know of, except some needed capital improvements initiated."
2. "Reduced spending to accommodate declines in revenue"
3. No response
4. "Public trust and interaction have reached new levels."
5. "The Commission is making progress on maintaining the sites and is focusing on public outreach."
6. "Set forth a set of Agency goals for the Executive Director."
7. "Organization and Direction"
8. "We developed a specific work plan, with goals, objectives, and a time line for accomplishment for the executive director."
9. "The director has specified goals and objectives to continue growth of the Commission."
10. "Under the guidance of the Executive Director, the Commission has developed and approved a clearly prioritized Plan for the Commission. The plan delineates objectives, goals, and specific projects, and integrates them to a timeline."

Commission Member Questionnaire

11. "A new Executive Director has set new goals and objectives and has put in place a time line to achieve them."

3. What are the Commission's plans for maintenance, restoration, and/or repair of its historical properties?

1. "I think there are plans for almost all the sites."
2. "Attend to acute needs first and when possible "catch up" with the backlog. We have used some oil and gas revenue to assist with the backlog and will use more once we understand our liability for reworking, plugging and abandonment costs."
3. No response
4. "There is a priority program in place. It has been followed for approximately 10 years, with funding going to sites with the most revenue potential."
5. "The Commission has a capital plan that includes maintenance and improvements at almost all of its historic sites."
6. "There are approximately 20 specific maintenance, restoration and/or repair plans in different stages of completion. Often these take years to complete."
7. "Prioritize work"
8. "Priorities have been set based upon greatest need. However, as noted in #1 above, it is unrealistic to expect significant change given the declining revenues (funding and staff support)."
9. "The Commission is working on fund raising programs for properties in need of maintenance."
10. "Part of the Plan mentioned under Item 2 above is a prioritized list of work needed to maintain the historical properties at an acceptable level, around the state. Funds have been raised or are being raised for important projects, including the Middle Bay Light House. The Commission has had to rely heavily on the support of groups like 'the Friends of...' to be able to obtain the funds needed to elevate and maintain the properties to a state of good repair. In general, the lack of funding necessary to maintain the properties adequately is a serious problem facing the Commission. The Executive Director and the Staff have done an exemplary job of using the existing resources wisely, consolidating community support, and prioritizing the projects related to the maintenance of the properties."
11. "The commission has established priorities for use of its limited funds and has begun a fund-raising campaign for such properties as the Middle Bay Lighthouse."

4. What is the current status of the Commission's grants program?

1. "I think it is still suspended."
2. "We do not have one because of lack of funds. We hope to raise money for reinstituting a grants program."
3. No response
4. "It is not adequately funded."
5. "I am not aware of the current status."
6. "I believe it to be in mothballs awaiting funding."
7. "None that I am aware of."
8. "The grants program has been suspended. Until the preservation trust fund corpus reaches pre-2000 levels. The program CANNOT be reinstated until that occurs."

Commission Member Questionnaire

9. "The Commission is reinvesting the interest earned so that the Alabama Cultural Preservation Trust Fund will reestablish its previous value and be able to fund a grant program. The Commission presently has no funding for a Grants Program."
10. "The Commission currently does not have adequate funding to be able to have an operating grants program. Because of the current economic climate, it has been impossible to bring the Alabama Cultural Preservation Trust Fund, the interest from which is supposed to support a grants program, back up to the amount required to produce that interest."
11. "The commission currently has no funding for a grants program."

5. What grants has the Commission made during the last year?

1. "None that I am aware of."
2. "None"
3. No response
4. "The most important commitment is to the Middle Bay Lighthouse in Mobile."
5. "I am not aware of grants that have been made during the last year."
6. "None other than legislatively earmarked grants."
7. "Do not know"
8. "Katrina grants have been obtained & administered. Also, grants have been obtained from the National Park Service & the Historic Preservation fund."
9. "Payments are made to designated recipients listed as line items in the Alabama Historical Commission's annual general fund appropriation. From the National Parks Service, Historic Preservation Fund, Certified Local Government and Katrina Grants have been administered."
10. "Grants have been made from the National Parks Service, the Historic Preservation Fund, Katrina, and Certified Local Government."
11. "The commission has administered grants from the federal government and has made payments to designees of the annual general fund appropriations."

6. Is the Commission adequately funded?

___ Yes _10_ No ___ Don't know ___ No Opinion _1_ No Reply

If not, what are the Commission's plans to secure additional funding?

1. "It depends on how its mission is defined, and that question remains unclear."
2. "We are developing relationships with "friends" groups at the various sites which, hopefully, will provide some additional sources of funds. We expect to use oil and gas revenues as described above."
3. No response
4. "Seek federal grants"
5. "The Commission has applied for several grants and is seeking federal funding and grants."
6. "The Commission has had a minor reprieve from an increase in oil & gas revenues. The Commission should resist the temptation to use it to cover operating shortfalls and stick to its original plan and use these funds for much needed capital improvements and maintenance

Commission Member Questionnaire

projects. The Commission also will hire or contract with a grant writer. The Executive Directive will work to insure there are active 'Friends Groups' at every Commission controlled property."

7. "Appropriations – State and Federal"
8. "We continue to lobby the legislature for adequate funding (which is difficult in these recessionary times). Also, we are applying for additional grants...though these funds will not solve property maintenance concerns/problems."
9. "Requests for Federal Funding through Washington, DC based Alabama Delegation, requests to State Legislators for appropriations from the General Fund."
10. "Requests for additional funding through appropriations from the State's General Fund, support from the Alabama Delegation in Washington, DC for Federal Funding for priority Commission projects."
11. "Requests to the legislature from the general fund and to the federal government (through the influence of the Alabama delegation.)"

7. Please address any additional concerns not included in this questionnaire.

1. No response
2. No response
3. No response
4. "The most important items were addressed in the form."
5. No response
6. No response
7. "Commission should evaluate its property for true historical value – if that value is not there then use the property to generate income."
8. No response
9. "Maintaining public interest in the preservation of our historical sites and funding for the Commission to continue its goals and objectives."
10. "Because of the lack of concrete information, it has been extremely difficult to adequately structure the Commission's 2010-2011 budget. Despite the fact that the existing staff do a heroic job and are competent and highly professional, the Commission needs additional staff in order to adequately fulfill its mission. The following new positions are crucial:
Grants coordinator – this is in view of the fact that, increasingly, the funding necessary for moving forward with the projects outlined in the Commission's plan will have to come from external sources, of which grants will form a critical part.
Educational coordinator – An educational coordinator to plan and implement programs at the Commission's Historical sites. This is in line with the strategy to increase activity at the Commission's sites through increased tourism and educational opportunities, which cannot currently be done adequately because of the lack of staff."
11. "Like all state agencies, the Commission is uncertain about cuts in the budget made necessary by a severe shortage in the state's general fund."

Executive Director Questionnaire

A questionnaire was sent to the Executive Director. His responses are as follows:

1. What are the most significant issues currently facing the Commission?

- “A. Overall funding is not adequate for the AHC to accomplish its’ mandates, duties, and goals.
- B. Need for more professional staff.”

2. What significant changes has the Commission made during the last year?

- “A. The new Executive Director has established a series of objectives and procedures for the AHC.
- B. A new set of officers have been installed.”

3. What are the plans for maintenance, restoration, and/or repair of the Commission’s historical properties?

- “A. The Historic Sites Committee reviews and prioritizes staff requests for maintenance at AHC properties. Priorities are based on physical necessity and opportunities to match external funding opportunities. The requests are sent to the AHC Finance Committee.
- B. The Executive Director and AHC staff continue to seek and secure external sources of funding for the historic properties, including donations from local groups and governments, and matching federal grants.
- C. The AHC staff has continued to seek cost-cutting measures, such as using materials from State Educational Surplus; employing lower cost carpentry and painting services such as the Alabama Department of Corrections; and relying upon volunteer or friend groups.
- D. The Historic Properties Committee met five times (two in Mobile area and three times in Montgomery) to hear and evaluate information and proposal for the Middle Bay Lighthouse in Mobile Bay. The committee decided to maintain the lighthouse in its present location and to develop a fund-raising campaign in conjunction with local interest persons and agencies.”

4. What plans does the Commission have for divesting itself of properties now owned by the Commission?

- “A. The Executive Director and Historic Properties Committee constantly look for alternative forms of ownership and management for the AHC historic properties. We spent 14 months considering the management and disposition of the Mobile Bay Lighthouse (see above).

Executive Director Questionnaire

B. The structure at 1123 South Perry Street will be listed on the real estate part and the Tardy Cottage in Mobile will be transferred to the City of Mobile.”

5. What is the current status of the Commission’s grants program?

“The AHC historic grant programs was stopped several years ago due to a reduction in state appropriations and a loss in value of the holdings in the Alabama Cultural Preservation Trust Fund (ACPTF). Until the value of the principal in the ACPTF is restored, the generated interest will be rolled back into the fund.”

6. What grants has the Commission made during the last year?

“I am not familiar with the specific amounts or recipients, but the AHC has made some grants under programs of the federal government, and state appropriations.”

7. Is the Commission adequately funded?

☐ Yes ☒ No ☐ Don’t know ☐ No Opinion ☐ No Reply

If not, what are the Commission’s plans to secure additional funding?

- “A. Continued applications to federal and private preservation granting agencies
- B. requests to local friends groups and historic societies
- C. Executive Director will continue to seek funding from state and federal legislatures.”

8. Is the Alabama Historical Commission adequately staffed? If not, what additional staffing is needed?

- “A. Every historic property is seriously understaffed and could use one to five additional staff members.
- B. Virtually every one of the programs based at the AHC headquarters in Montgomery is also seriously understaffed. Most staff members have multiple duties assigned to them when other staff members were let go due to reduction in the commission’s annual budgets.”

9. Please address any additional concerns not included in this questionnaire.

“There are a few but all are secondary to the chronic under-funding of the Commission’s budget.”

APPENDICES

SMART Performance Reports (2009 Fiscal Year)

Monday, December 07, 2009
EBO Form 10

FY 09 SMART Quarterly Performance Report

Page 1 of 7

Multi-level Agency

Agency:	320 - Historical Commission, Alabama	Program:	050 - CAPITAL OUTLAY							
Organization:	0100 - ALABAMA HISTORICAL COMM	Activity:	0127 - HISTORICAL SITE DEV & PRESERV							
Mission:	Foster the protection, preservation and interpretation of Alabama's historic places (Code of Alabama 41-9-42 et. seq; National Historic Preservation Act of 1966, as amended).									
Workload Measures and Quarterly Projections										
	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload Measure	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
W1: Number of acres to maintain at state-owned historic sites.	1573	1573	1573	1573	1573	1574	1573	1574	1573	1574
W2: Number of square feet of structures at state-owned historic sites requiring restoration.	358351	356964	350000	356723	345000	355058	336948	368861	336948	368861
W3: Number of projects completed at state-owned historic sites.	6	1	2	5	2	0	6	4	16	10

Monday, December 07, 2009
EBO Form 10

FY 09 SMART Quarterly Performance Report

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Multi-level Agency

Agency: 320 - Historical Commission, Alabama				Program: 050 - CAPITAL OUTLAY								
Organization: 0100 - ALABAMA HISTORICAL COMM				Activity: 0127 - HISTORICAL SITE DEV & PRESERV								
Key Goal:												
Goal 1	Reduce square footage requiring restoration at historic sites by 20% by 2012 (367,515 to 294,012 square feet). FY 2007 baseline is 367,515 square feet requiring restoration out of 400,936 square feet total.								Governor's Priority:	5		
Objectives and Quarterly Targets:												
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual		
Objectives		Unit of Measure	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
(O1-Efficiency) Reduce square footage requiring restoration by 6.0% (358,802 square feet to 336,948 square feet).		Total square footage requiring restoration.	358351	356964	350,000	356723	345000	355058	336948	368861	336948	368861
(O2-Quality) 100% of restoration work meets Secretary of Interior Standards.		% of restoration work that does meet standards	100	100	100	100	100	100	100	100	100	100

FY 09 SMART Quarterly Performance Report

Multi-level Agency

Agency:	320 - Historical Commission, Alabama	Program:	161 - HISTORICAL RESOURCES MANAGEMENT							
Organization:	0100 - ALABAMA HISTORICAL COMM	Activity:	0127 - HISTORICAL SITE DEV & PRESERV							
Mission:	Foster the protection, preservation and interpretation of Alabama's historic places (Code of Alabama 41-9-42 et seq; National Historic Preservation Act of 1966 as amended)									
Workload Measures and Quarterly Projections										
	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload Measure	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
W1: Number of times constituents, general public, and school students receive agency's services. Workload includes number of visitors to historic sites; web site sessions; participants in workshops, presentations and annual conference; staff responses to public's request for information; and responses to constituents with projects under federal review.	124283	127560	156105	116984	168006	131723	130945	138410	579339	514677
W2: Number of acres at state-owned historic sites to maintain.	1573	1573	1573	1573	1573	1574	1573	1574	1573	1574
W3: Number of square feet of structures at state-owned historic sites to maintain.	458404	458404	458404	458404	458404	458404	458404	470590	458404	470590
W4: Number of buildings and sites affected. Workload represents actions taken by AHC staff to preserve, promote, protect and record historic places in Alabama.	12039	12947	12228	13374	12866	12518	12083	13628	13339	16050

FY 09 SMART Quarterly Performance Report

Multi-level Agency

Agency: 320 - Historical Commission, Alabama				Program: 161 - HISTORICAL RESOURCES MANAGEMENT								
Organization: 0100 - ALABAMA HISTORICAL COMM				Activity: 0127 - HISTORICAL SITE DEV & PRESERV								
Key Goal:												
Goal 1	Preserve AHC-owned historic places and artifacts by increasing resources for care and maintenance by \$807,286 by 2012 (from \$636,289 in FY 2007 to \$1,443,575 in FY 2012).								Governor's Priority:		5	
Objectives and Quarterly Targets:												
Performance Measures			First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Objectives		Unit of Measure	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
(O1-Quality) increase spending on maintenance at historic sites by 20% annually. (FY 07 is an anomaly due to one time purchase of maintenance equipment for historic sites.)		Funds Spent	174,690	174725	174,690	135594	174690	200809	174690	164746	698750	675873

FY 09 SMART Quarterly Performance Report
Multi-level Agency

Agency: 320 - Historical Commission, Alabama					Program: 161 - HISTORICAL RESOURCES MANAGEMENT							
Organization: 0100 - ALABAMA HISTORICAL COMM					Activity: 0127 - HISTORICAL SITE DEV & PRESERV							
Key Goal:												
Goal 2	Increase AHC generated retail and admissions revenues by 40% by 2012(\$475,150 to \$665,210). Baseline established in FY 2007.								Governor's Priority:		5	
Objectives and Quarterly Targets:												
Performance Measures			First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Objectives		Unit of Measure	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
(O1-Efficiency) Increase AHC's retail revenue by 10% annually (\$287,977 to \$316,744). Baseline established in FY 2007.		dollars of retail revenue generated	79,186	27629	79,186	77718	79,186	64198	79,186	55576	316,744	255121
(O2-Efficiency) Increase AHC's admission revenue by 10% annually (\$408,764 to \$449,640). Baseline established in FY 2007.		dollars of admission revenue	112,410	116254	112,410	49259	112,410	65185	112,410	117386	449,640	348084

FY 09 SMART Quarterly Performance Report
Multi-level Agency

Agency: 320 - Historical Commission, Alabama					Program: 161 - HISTORICAL RESOURCES MANAGEMENT							
Organization: 0100 - ALABAMA HISTORICAL COMM					Activity: 0127 - HISTORICAL SITE DEV & PRESERV							
Key Goal:												
Goal 3	Increase number of school aged visitors at AHC-owned historic sites by 5% by FY 2012 (83,085 school aged visitors to 87,240 school aged visitors). Baseline established in FY 2008.								Governor's Priority:		1	
Objectives and Quarterly Targets:												
Performance Measures			First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Objectives		Unit of Measure	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
(O1-Quality) Increase numbers of school aged visitors at AHC-owned historic sites by 1.25% (83,085 to 84,082). Baseline of 83,085 established in FY 2009.		number of school aged visitors	25,000	22173	17,041	14941	25,000	27415	17,041	9902	84,082	74431

FY 09 SMART Quarterly Performance Report
Multi-level Agency

How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2008-09 affected your agency in meeting its desired accomplishments and services?

The lack of general fund appropriation and the 2009 General Fund Supplemental Bill that reduced agency General Fund appropriations due to the Governor's Deficit Prevention Plan deterred the protection, preservation, and interpretation of Alabama's historic places. Also, non-AHC line item appropriations have placed an administrative burden on the under staffed Historical Commission.

What administrative improvements did your agency make in fiscal year 2008-09 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements.

The finance department continues to strive to be more efficient and consistent with the policies and procedures of the State of Alabama.

Response Letter from State Oil and Gas Board

STATE OIL AND GAS BOARD OF ALABAMA

OIL AND GAS BOARD

James H. Griggs, Chairman
Charles E. (Ward) Pearson, Vice Chairman
Rebecca Wright Pritchett, Member
Berry H. (Nick) Tew, Jr., Secretary
S. Marvin Rogers, Counsel



420 Hackberry Lane
P.O. Box 869999
Tuscaloosa, Alabama 35486-6999
Phone (205)349-2852
Fax (205)349-2861
www.ogb.state.al.us

Berry H. (Nick) Tew, Jr.
Oil and Gas Supervisor

January 21, 2010

Mrs. Lisa Jones
Director of Finance
Alabama Historical Commission
P.O. Box 300900
Montgomery, AL 36130-0900

Re: Obligations Relating to Costs for
Plugging and Abandonment

Dear Mrs. Jones:

I have enjoyed talking with you about the obligations relating to costs for plugging and abandonment.

Here is my analysis of the legal issues before the Alabama Historical Commission.

In 1982, in Order 82-244, the Oil and Gas Board on the Petition by Mobil established the Lower Mobile Bay Mary Ann Unit as a partial fieldwide unit. The Lower Mobile Bay Mary Ann Unit is a deep, highly productive offshore unit with several wells in the unit area. The owner of the tract around Ft. Morgan, an old Confederate fort on the Morgan Peninsula, is the Alabama Historical Commission. The Commission did not lease its lands and was, therefore, "forced unitized." Since that time, the Unit has "paid out," and the Commission is receiving its share of revenues from Exxon Corporation, the Unit Operator. Based upon our discussions, Exxon is following the normal accepted practice of disbursing to the Commission its share of revenues after deducting the Commission's share of costs.

The Unit should produce for another 20 or so years. Whenever the unit and field are depleted, the Unit Operator will plug and abandon the wells and the field. The question you have posed to me is whether the Commission's share of the costs for plugging and abandonment will be deducted from the Commission's share of revenues or whether the Commission is required to disburse to the Unit Operator the Commission's share of costs.

The provisions of the *Code of Alabama* addressing fieldwide unitization are not entirely clear on this issue. Nevertheless, some provisions appear to allow the operator to collect from the forced unitized parties their share of the costs of unit operations. *Ala. Code* 1975, Section 9-17-83. Under these code provisions, the Unit Operator, Exxon, could arguably claim that the Commission must pay its share of the costs of plugging and abandonment. However, under

Mobile Regional Office, 4173 Commanders Drive, Mobile, AL 36615-1421, Phone (251) 438-4848

Mrs. Lisa Jones
January 21, 2010
Page 2 of 2

common law principles of tenancy in common, the Commission is a co-tenant with Exxon. As a co-tenant, Exxon has the right to utilize properties that are subject to the co-tenancy in order to make a profit. Under that legal principle, Exxon may charge its co-tenant its share of the costs but may not require the Commission, as co-tenant, to pay any costs. This common law principle is stated as follows: a tenant in common who places improvements on the common property may not compel the co-tenants to contribute to the cost of the improvements.

It is my understanding that Unit Operators generally do not attempt to compel forced unitized parties like the Commission to pay their share of well costs including costs of plugging and abandonment of wells.

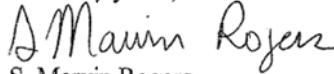
As I stated above, under the code provisions relating to fieldwide unitization, the Unit Operator arguably may charge costs against the Commission, but under the co-tenancy theory, the Unit Operator may only deduct the Commission's share of costs from revenues received by the Unit Operator.

Based on these laws and principles, I believe it is unlikely that the Unit Operator would claim plugging and abandonment costs from the Historical Commission.

Obviously, the best solution would be for the Commission and Exxon to work out an agreement by which Exxon would simply withhold some of the Commission's share of revenues.

As I have stated to you, I have discussed this matter with the attorney for Exxon Corporation. Considering that the State Oil and Gas Board of Alabama regulates Exxon, I am uncomfortable taking this matter further with Exxon. Mr. William T. (Tom) Watson, Exxon's attorney, has told he will be pleased to discuss this matter with you. So, he is awaiting your call. His telephone number is 205-345-1577. I hope this has been helpful.

Sincerely yours,



S. Marvin Rogers
Attorney for the Board

itb

Response Letter from ExxonMobil

Exxon Mobil Corporation
P. O. Box 2180
Houston, Texas 77252-2180
713 656 6417 Telephone
713 656 4653 Facsimile

Gwendolyn Dawson
Attorney

February 25, 2010

ExxonMobil

Ms. Lisa Jones
Alabama Historical Commission
468 South Perry Street
Montgomery, AL 36130

Re: Alabama Historical Commission's Working Interest Liability for the Lower Mobile Bay-Mary Ann Unit

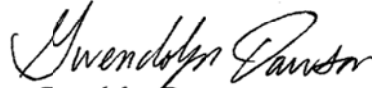
Dear Ms. Jones:

Our Alabama regulatory counsel, Tom Watson, referred your question concerning the Commission's working interest liability for the Lower Mobile Bay-Mary Ann Unit to me. Our records reflect that representatives of ExxonMobil had a meeting on this topic in Spanish Fort, at the 5 Rivers location, with the State Lands Director and his staff. While we understand that the State Lands Director who attended that meeting has since retired, Will Brantley also attended the meeting and is still with the State Lands Division. Since others in your department may also have retired, you may want to speak with the new State Lands Director, Patti Powell, or Mr. Brantley about this topic.

As ExxonMobil explained in the meeting in Spanish Fort, all working interest owners are responsible for the payment of their share of working interest expenses. No one knows exactly what the final abandonment expense will be for the Mary Ann Unit. As Unit Operator, ExxonMobil estimates those costs periodically, but even those estimates change over time. As a working interest owner, the Historical Commission should be prepared to pay for its eventual share of abandonment costs. Ms. Powell and Mr. Brantley may have some ideas on how your Commission can prepare for these costs.

Finally, you may want to ask the Oil and Gas Board for any forecasts it has on when final abandonment may take place. We keep the Oil and Gas Board and the Department of Conservation and Natural Resources informed of all major offshore operations in which ExxonMobil is involved.

Sincerely,



Gwendolyn Dawson
Counsel

cc: Tom Watson

Applicable Statutes

§ 41-9-240. Legislative findings; purpose of division; creation of commission. [Historical Notes](#) [References](#)

The historical heritage of the State of Alabama is among its most valued and important assets, and the preservation of historic sites, buildings and objects within the state is of great concern to Alabama and its people. It is of special value to the youth of Alabama as a constant reminder of the circumstances under which our state was born and nurtured and under which our great nation has developed. To further foster the understanding and preservation of our heritage, there is hereby created and established an agency of the State of Alabama to be known as the Alabama Historical Commission.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 1.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Act 2006-151, § 2 provides: "The existence and functioning of the Alabama Historical Commission, created and functioning pursuant to Sections 41-9-240 to 41-9-262, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved until October 1, 2007."

Act 2007-195, § 2 provides: "The existence and functioning of the Alabama Historical Commission, created and functioning pursuant to Sections 41-9-240 to 41-9-262, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved, until October 1, 2008."

Act 2008-142, § 2 provides: "The existence and functioning of the Alabama Historical Commission, created and functioning pursuant to Sections 41-9-240 to 41-9-263, inclusive, Code of Alabama 1975, is continued until October 1, 2011, and those code sections are expressly preserved."

REFERENCES

CROSS REFERENCES

As to state flag display, see Chapter 2A (commencing with § 1-2A-1) of Title 1.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States 45.

Corpus Juris Secundum:

C.J.S. States §§ 79-80, 82, 136.

§ 41-9-241. Commission a public body corporate. [References](#)

The commission, as an agency of the State of Alabama, constitutes a public body corporate and shall have, in addition to those set forth specifically in this division, all powers necessary or

convenient to effect the purposes for which it has been established under and by the terms of this division, together with all powers incidental thereto or necessary to the discharge of its powers and duties.


CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 8.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  45, 67.

Corpus Juris Secundum:

C.J.S. States §§ 79-80, 82, 120-121, 136-138, 140.

§ 41-9-242. Purpose of commission. [References](#) [Annotations](#)

The purpose of the Alabama Historical Commission, hereinafter referred to as the commission, shall be to acquire in its own name or in the name of the State of Alabama by purchase, devise, lease, assignment, license, condemnation, gift, bequest, transfer or otherwise buildings, objects and sites deemed worthy of being preserved, improved, protected and maintained for or on account of their particular historic, archaeological or architectural significance, including adjacent properties deemed necessary for the proper setting, use and administration of same, and said buildings, objects and sites shall include, but shall not be limited to, the following:

- (1) Buildings in which events of great significance to Alabama's or the nation's history have taken place and the sites surrounding them;
- (2) Birthplaces or residences of outstanding personages and the sites surrounding them;
- (3) The sites of historic or significant events in Alabama or United States history, including military engagements, Indian treaties and massacres;
- (4) Buildings of significant or outstanding architectural value;
- (5) Buildings, sites, objects or monuments of special significance to our cultural, military, social, economic, religious or commercial heritage, including post roads, traces, ruins, railroads, plantations, wharfs, missions, places of treaties, cemeteries, fortifications and places of worship; and
- (6) Archaeological sites for excavational, salvage, protective and interpretative purposes.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 2; Acts 1971, No. 500, p. 1213, § 1.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  45, 67, 72.

Corpus Juris Secundum:

C.J.S. States §§ 79-80, 82, 120-121, 123, 136-138, 140.

ANNOTATIONS

CASENOTES

Generally 1

1. Generally

If, where fraud is not evident, the court sets itself up as a reviewing authority of purchases by the Alabama historical commission, litigation could result seeking the court's supervision and revision of activity that rightfully is the responsibility and prerogative of the governmental agencies and bodies concerned. This the courts are without constitutional authority to do and will not undertake to do. *State ex rel. Baxley v. Givhan*, 292 Ala. 533, 297 So.2d 357 (Ala.1974).

§ 41-9-243. Composition of commission. [Historical Notes](#) [References](#)

The commission shall consist of 20 members, one of whom shall be the Governor, one of whom shall be the Lieutenant Governor, one of whom shall be the Speaker of the House of Representatives, one of whom shall be the Director of the Department of Archives and History, one of whom shall be the Director of the Alabama Tourism Department, one of whom shall be the Commissioner of Conservation and Natural Resources, one of whom shall be the Director of the Technical Staff of the Alabama Building Commission, and 13 other persons to be appointed by the Governor, one of whom shall be selected from a list of three nominees submitted by the Alabama Council of the American Institute of Architects, one from a list of three nominees submitted by the Alabama Historical Association, one from a list of three nominees submitted by the Alabama State Chamber of Commerce, one from a list of three nominees submitted by the Alabama Farmers Federation, one from a list of three nominees submitted by the President of the University of Alabama, one from a list of three nominees submitted by the President of Auburn University, one from a list of three nominees submitted by the President of the University of South Alabama, one from a list of three nominees submitted by the President of Troy University, one from a list of three nominees submitted by the President of the University of Montevallo, one from a list of three qualified archaeologists nominated by the Alabama Archaeological Society, and three from the state at-large. The membership of the commission shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

The nominees and appointees shall be persons who have demonstrated interest in and concern about the preservation of this state's rich history and traditions and who are conversant with the history of the state and who are qualified to direct and supervise the work of the commission.

The members appointed by the Governor shall be citizens of this state and shall serve for terms of six years each; except, that the terms of the members of the first commission shall be three years for one half of the members appointed by the Governor and six years for the remaining members. After the expiration of the term of the initial members, all members appointed by the Governor shall be appointed for terms of six years each.

Any member of the commission may be removed by the Governor for cause, and vacancies in the commission shall be filled by the Governor by the appointment of a competent and qualified person for the unexpired term, from a list of three nominees submitted to him or her by the organization which originally nominated the member being replaced.

The Chair of the Restructured Historic Chattahoochee Commission shall serve as an ex officio policy making member of the commission.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 13; Acts 1969, No. 768, p. 1366, § 1; Acts 1971, No. 500,

p. 1213, § 9; Acts 1973, No. 1077, p. 1831; Acts 1992, No. 92-108, p. 178, § 7; Act 2007-195, p. 230, § 3; Act 2008-142, p. 228, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2007 amendment, effective May 7, 2007, in the first undesignated subsection substituted ", and" for "and" in two places, and added the final sentence; in the second undesignated subsection substituted "The" for "Said"; in the fourth undesignated subsection inserted "or her"; and in the final undesignated subsection substituted "Chair" for "Chairman".

The 2008 amendment, effective April 10, 2008, in the third undesignated subsection inserted "shall be citizens of this state and".

Code Commissioner's Notes


The last paragraph of this section was added by the Code Commissioner in order to conform the provisions of this section with the provisions of former § 41-9-304, as amended.

Acts 1992, No. 92-108, § 8 provides: "All actions taken by Alabama Farmers Federation or its officers in conjunction with or pursuant to the authorization to Alabama Farm Bureau Federation contained in Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, since the time of the change of name of said organization from Alabama Farm Bureau to Alabama Farmers Federation, are hereby ratified and confirmed."

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  46, 47, 48, 51, 52.

Corpus Juris Secundum:

C.J.S. States §§ 61, 80, 83-84, 87, 91-94, 96, 98-102.

§ 41-9-244. Members to serve without pay; expenses. [References](#)

No member of the commission shall receive any pay or emolument other than his expenses incurred in the discharge of his duties as a member of the commission which expenses shall be paid in the amounts provided for in Article 2 of Chapter 7 of Title 36 of this code. All such expenses are to be paid from the funds of the commission.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 14.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  60(1).

Corpus Juris Secundum:

C.J.S. States §§ 104-108.

§ 41-9-245. Meetings generally; quorum; organization and procedure; officers. [References](#)

The commission shall hold an annual meeting at the Capitol building in Montgomery, and eight members of the commission shall constitute a quorum for the transaction of business. Additional meetings will be held at such times and places within the State of Alabama as may be considered necessary, desirable or convenient upon call of the chairman or, in the case of his absence or incapacity, of the vice-chairman. However, by four-fifths vote of the commission, such meetings may be held outside the State of Alabama. The commission shall determine and establish its own organization and procedures in accordance with the provisions of this division and the general law. The commission shall elect a chairman, a vice-chairman, a secretary and a treasurer, and such officers shall hold office for a period of one year and until successors are elected.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 15; Acts 1969, No. 768, p. 1366, § 2.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒67, 72.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 123, 136-138, 140.

§ 41-9-246. Board of advisors. [Historical Notes](#) [References](#)

(a) There is hereby established a Board of Advisors to the Alabama Historical Commission. Said board of advisors shall consist of no less than 15 persons. Each of the below listed societies, organizations, individuals, commissions and institutions shall have the authority to name one member of said board and shall submit the name of said person to the chairman of the commission prior to the annual meeting of the commission:

- (1) The Alabama Division, United Daughters of the Confederacy;
- (2) The Alabama Society of the Daughters of the American Revolution;
- (3) The Alabama Society of the Daughters of the American Colonists;
- (4) The Mobile Historic Development Commission;
- (5) The National Society of the Colonial Dames of America in the State of Alabama;
- (6) The Huntsville Historic Preservation Commission;
- (7) The Alabama Department of the Sons of Confederate Veterans;
- (8) The Gorgas Memorial Board;
- (9) The Hobson Memorial Board;
- (10) The Cahaba Advisory Committee;
- (11) The LaGrange Historical Commission;
- (12) The Fort Morgan Historical Commission;
- (13) The USS Alabama Battleship Commission;
- (14) The Tennessee Valley Historical Society;
- (15) The Montgomery Antiquarian Society;
- (16) The Helen Keller Property Board;
- (17) The Birmingham Historical Society;
- (18) The Board of Trustees of the Mobile Museum Board;
- (19) The Board of Trustees of the Montgomery Museum Board;

(20) The head of the department of history and the head of the department of archaeology of each accredited, four year, degree granting university and college located within the State of Alabama;

- (21) The John H. Forney Historical Society;
- (22) The Tuscaloosa County Preservation Society;
- (23) The Blount County Historical Society;
- (24) The Chattahoochee Valley Historical Society;
- (25) The Dale County Historical Society;
- (26) The Etowah Historical Society;
- (27) The Hale County Historical Society;
- (28) The Huntsville Historical Society;
- (29) The North Alabama Historical Society;
- (30) The Old South Historical Society;
- (31) The Pike County Historical Society;
- (32) The Society of Pioneers of Montgomery;
- (33) The Eufaula Heritage Association;
- (34) The Marengo Historical Society;
- (35) The Historic Mobile Preservation Society;
- (36) The Alabama Society, Sons of the American Revolution;
- (37) The Alabama Society, Southern Dames of America;
- (38) The Huguenot Society in Alabama;
- (39) The Alabama Society of the Colonial Dames of the 17th Century;
- (40) The Coweta Memorial Association; and

(41) Any other local or regional historical society duly recognized by the commission which may exist or which may be created subsequent to August 19, 1966.

(b) Said advisory board shall meet annually at a place to be designated by the commission and shall serve without compensation. The board shall advise the commission on matters relating to the historic and architectural assets of the State of Alabama and assist the commission in compiling and maintaining an inventory of such assets and in carrying out all of its various duties.

(c) There may further be added to the advisory board by the commission such other civic, charitable and patriotic organizations as it may from time to time deem to be to the best interest of the commission.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 16; Acts 1969, No. 768, p. 1366, § 3.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

The Fort Morgan Historical Commission, referred to in subdivision (12) of subsection (a) of this section, was abolished and all properties, powers, funds, etc., thereof transferred to the Alabama Historical Commission by Acts 1976, No. 628, p. 865.

The LaGrange Historical Commission, referred to in subdivision (11) of subsection (a) of this section, has been redesignated the LaGrange Advisory Committee, by Acts 1979, No. 614, p. 1084, § 3.

The Richmond Pearson Hobson Memorial Board, referred to in subdivision (9) of subsection (a) of this section, was abolished and all properties, powers, funds, etc., thereof were transferred to the

Alabama Historical Commission by Acts 1980, No. 80-208, p. 289, § 1. See § 41-9-222.

REFERENCES

CROSS REFERENCES

As to Fort Tombeckbee Historical Advisory Board, see § 41-9-262.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 45, 46, 67, 72.

Corpus Juris Secundum:

C.J.S. States §§ 61, 79-80, 82, 84, 102, 120-121, 123, 136-138, 140.

§ 41-9-247. Executive director. [References](#) [Annotations](#)

The commission may employ an executive director, who shall serve at the pleasure of the commission and who shall be responsible directly to the commission for the general supervision and execution of the work of the commission. The commission shall fix his compensation, with the approval of the Governor and the State Personnel Board, the same to be paid from the funds of the commission, and shall further designate his duties and authority.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 6.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 46, 60(1).

Corpus Juris Secundum:

C.J.S. States §§ 61, 80, 84, 102, 104-108.

ANNOTATIONS

CASENOTES

Generally 1

1. Generally

It is apparent from this statute that the function of the commission and the executive director is to achieve the objects and purposes for which the commission was created. *Floyd v. Alabama Historical Commission*, 388 So.2d 182 (Ala.1980).

§ 41-9-248. Employees. [References](#)

The commission may employ either on a part-time or full-time basis such advisors, archaeologists, architects, engineers, attorneys, real estate appraisers, laborers, artisans, historians, caretakers, guides,

peace officers, technicians, superintendents, stenographers and administrative employees and supervisory and professional personnel as may be necessary or advisable for carrying out in the most efficient and beneficial manner the purposes and provisions of this division, and all permanent full-time employees other than the executive director, the state officer of archaeology and projects supervisor shall be subject to the state Merit System.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 5; Acts 1971, No. 500, p. 1213, § 4; Acts 1975, No. 1173, § 1.)

REFERENCES

CROSS REFERENCES

As to Merit System, see § 36-26-1 et seq.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  53, 60(1).

Corpus Juris Secundum:

C.J.S. States §§ 81-83, 86, 93-98, 101, 104-108, 136.

§ 41-9-249. Powers and duties of commission generally. [Historical Notes](#) [References](#)

The commission shall have the following duties and powers:

(1) To promote and increase knowledge and understanding of the history of this state from the earliest time to the present, including the archaeological, Indian, Spanish, British, French, Colonial, Confederate and American eras, by adopting and executing general plans, methods and policies for permanently preserving and marking objects, sites, structures and ruins as defined in Section 41-9-242;

(2) To promote and assist in the publicizing of the historic resources of the state by preparing and furnishing information to public mass media and to governmental agencies charged with publicity and to coordinate any of its objectives, efforts or functions with any agency or agencies of the federal government, of the State of Alabama and of other states or local governments having objectives similar or related to those of the commission;

(3) To accept for renovation, maintenance, restoration, preservation or management and operation any building or site within the State of Alabama owned by the United States, the State of Alabama or any agency or subdivision thereof or by the national trust for historic preservation or by natural or corporate persons, public or private, upon such terms and conditions as to the commission shall be deemed in the best interest of the State of Alabama in conformity with the purposes of this division;

(4) To acquire, by exercise of the power of eminent domain, historic structures of paramount or exceptional importance, such as those Alabama landmarks eligible for nomination to or recorded in the National Register of Historic Places; provided, that at least two-thirds of the members of the commission shall vote to acquire such structures by the exercise of this measure;

(5) To charge admissions at the various buildings and sites under the control of the commission throughout the state and to sell booklets, pamphlets and souvenirs at said locations

and to retain and use the proceeds of said sales and admissions for the furtherance of the purposes of the commission as defined by this division;

(6) To adopt a seal for the commission and to use the same on its brochures, stationery and other official publications and upon its historic site markers;

(7)a. To acquire, receive and take title to, by purchase, gift, lease, devise or otherwise, and to own, to hold, keep and develop, and to sell, transfer, convey, lease, and assign to any person or otherwise dispose of property of every kind and character, whether real, personal or mixed, whether tangible or intangible, whether in trust or otherwise, together with any and every interest therein, in furtherance of the lawful objectives of the commission;

b. To negotiate for Dismals Wonder Gardens in Franklin County; to be held in trust for the Alabama Indian Commission. The administration of said property shall be by and with consultation with the Alabama Historical Commission and the Alabama Indian Commission for the preservation of the historical heritage of said property and shall utilize any proceeds therefrom, including interest on any investments, for the preservation of the property;

c. To administer such property or trusts, whenever any such property is received or held to be used for the benefit of the historical heritage of the State of Alabama, for preservation of historic sites, buildings and objects, or for other lawful objectives of the commission, as it deems in the best interest of historical preservation or in furtherance of the objective for which the property is held or the donation or gift is made; and to convert such property or any portion thereof into securities or other forms of property and use the proceeds therefrom, including any interest on investments, as it deems will best promote the objectives of the commission;

d. To accept as trustee, beneficiary, or both, any interest in such property, together with any proceeds from its investment, for the benefit of historical preservation or other purposes of the commission, upon such conditions as may be acceptable to the donor and the commission. No such undertaking entered into by the commission or its agent or agents shall bind the state to pay any state moneys to anyone; provided, however, that nothing herein shall prevent the commission from undertaking payments out of the proceeds from such trust funds as a condition of the acceptance of the donation. All trust funds administered pursuant to this act may be required by the commission to pay the expenses of administering the same. Such gifts shall be deductible from Alabama state income tax by the donor or donors;

e. To convey title or any interest in real estate by deed or other instrument executed by a majority of the commissioners or by agent or agents authorized by a majority vote of the commission; and to convey property other than real estate by agent or agents authorized by a majority vote of commissioners present and voting.

(8) To maintain an office in a location in the state to be selected by the commission for the use of the executive director, the employees and the commission and to acquire the necessary furniture and equipment therefor;

(9) To prepare, create, purchase and distribute pamphlets and brochures describing the various historic buildings and sites under the jurisdiction of the State of Alabama or any of its agencies;

(10) To make and publish a survey of the buildings, ruins and sites of historic, architectural or archaeological significance within the State of Alabama and to make available such survey to individuals, institutions and governmental bodies desiring copies of same;

(11) To determine from such survey the buildings, ruins and sites listed therein which are considered worthy of permanent preservation, to certify same as being worthy and to publish said list;

(12) To establish criteria for the certification, selection and acquisition of historic properties

for state ownership and for state aid to local historic site projects;

(13) To nominate selected landmarks with historic, architectural and archaeological significance to the National Register of Historic Places using priorities established by the commission;

(14) To establish and maintain an Alabama state historic preservation depository into which may be deposited antiques, relics, artifacts, mementos, paintings and other objects contributed to or acquired by the state or the commission. The commission shall have the authority to restore these objects and to use them for the furnishing of its own historic buildings and other selected landmarks in Alabama;

(15) To rent or lease any of its acquisitions to public or private agencies;

(16) To publish an informational newsletter which shall periodically report on and promote local, regional and state historic preservation activities;

(17) To produce and publish technical ("how to") manuals on historic preservation;

(18) To publish and present citations and distinguished service awards to selected private and public organizations and individuals for outstanding achievements in preserving the heritage of Alabama;

(19) To purchase, produce, sell and distribute historic souvenir items;

(20) To improve, restore, preserve, renovate, maintain, exhibit, repair, rebuild, recreate and reconstruct its acquisitions, and the commission shall have jurisdiction over the same and the exhibits located thereon;

(21) To purchase or otherwise acquire and to erect and maintain "historic markers" on such buildings, roads, trails, routes and sites as it shall designate and to cooperate with and assist local, regional and state historical groups in selecting and erecting such markers; and

(22) To accept the gift of money and real and personal property from any and all public and private sources. Such gifts shall be deductible from Alabama state income tax by the donor.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, §§ 3, 7, 10, 11; Acts 1971, No. 500, p. 1213, §§ 2, 5, 6, 7; Acts 1991, 1st Ex. Sess., No. 91-805, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1991, Ex. Sess., amendment, effective September 20, 1991, added subdivision (7) and redesignated former subdivisions (7) through (21) as subdivisions (8) through (22).

REFERENCES

CROSS REFERENCES

As to reporting by cemetery rehabilitation authorities and establishment of a statewide inventory, see § 11-80-13(e).

As to eminent domain generally, see § 18-1A-1 et seq.

As to the commission transferring the LaGrange Historical Site to the LaGrange Living Historical Association, see § 41-9-272.

REFERENCES


ADMINISTRATIVE CODE

10 Ala. Admin. Code 460-X-12-.01, Historical Commission; Underwater Cultural Resources: Permits.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  67, 72.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 123, 136-138, 140.

§ 41-9-249.1. Contracts for recovery or salvage of archaeological treasure, etc. [References](#)

(a) Notwithstanding any provision of law to the contrary, the Alabama Historical Commission may enter into contracts with any group or person for the recovery or salvage of archaeological treasure, sunken or abandoned ships and wrecks of the sea, or parts thereof or their contents, which are determined to be located on state owned lands, or on private land if the written consent of the owner thereof is first obtained. Such contracts shall be on forms approved by the commission and may provide for fair compensation to the salvager, and owner of the private land where applicable, in terms of a percentage of the reasonable cash value of the objects recovered or at the discretion of the commission, of a fair share of the objects recovered. The amount constituting a fair share shall be determined by the commission, taking into consideration the circumstances of each operation, and the reasonable cash value may be determined by contractual agreement for appraisal by qualified experts or by representatives of the contracting parties. Each contract shall provide for the termination of any right in the salvager thereunder upon the violation of any of the terms thereof. Each contract shall be approved by both the state Finance Director and the Governor. The distribution of the state's share of the recovery or salvage shall be as follows:

(1) All archaeological treasure and artifacts shall be placed in the custody and control of the Alabama Historical Commission.

(2) All monetary proceeds from the sale of any recovered or salvaged archaeological treasure or artifacts including but not limited to gold, silver or other precious metal shall be deposited with the State Treasurer to the credit of the State General Fund.

(b) The provisions of this section are supplemental. It shall be construed in pari materia with other laws regulating salvage and excavation of antiquities; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

CREDIT(S)

(Acts 1984, 2nd Ex. Sess., No. 85-53, p. 75.)

REFERENCES

ADMINISTRATIVE CODE

10 Ala. Admin. Code 460-X-12-.01, Historical Commission; Underwater Cultural Resources: Permits.

§ 41-9-250. Preservation, operation, etc., of certain historical properties and sites by commission. [Historical Notes](#) [References](#)

(a) The following historic properties and sites shall be under the jurisdiction and control of the

Alabama Historical Commission:

- (1) Fort Mims, Stockton, Baldwin County;
- (2) Fort Toulouse, Wetumpka, Elmore County;
- (3) Gaineswood, Demopolis, Marengo County; and
- (4) Confederate Memorial Cemetery, Mountain Creek, Chilton County.

(b) The Alabama Historical Commission shall have full authority to develop, renovate, restore, preserve, maintain, operate, exhibit and publicize such properties in accordance with the powers and responsibilities of the said commission.

CREDIT(S)

(Acts 1971, No. 665, p. 1374.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Acts 1980, No. 80-208, p. 289, § 1, transfers to the Alabama Historical Commission all property under the management and control of the Richmond Pearson Hobson Memorial Board, which was abolished, with full authority to develop, renovate, restore, preserve, maintain, operate, exhibit and publicize such property. See § 41-9-222.

REFERENCES

CROSS REFERENCES

As to the commission transferring the LaGrange Historical Site to the LaGrange Living Historical Association, see § 41-9-272.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  67, 88.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 136-138, 140, 147.

§ 41-9-251. Cahawba Historical Site--Preservation, operation, etc. [Historical Notes](#) [References](#)

The Cahawba Historical Site, a property on the National Register of Historic Places, Dallas County, Alabama, shall be under the jurisdiction and control of the Alabama Historical Commission, which shall have full authority to develop, renovate, preserve, maintain, operate, exhibit, and publicize the Cahawba Historical Site in accordance with the powers and responsibilities of the commission.

CREDIT(S)

(Acts 1975, 3rd Ex. Sess., No. 155, § 1; Act 2003-401, p. 1167, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2003 amendment, effective September 1, 2003, substituted "Cahawba" for "Cahaba" in two places, and substituted "the commission" for "said commission".

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒67, 72, 88.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 123, 136-138, 140, 147.

§ 41-9-252. Cahawba Historical Site--Advisory committee. [Historical Notes](#) [References](#)

(a)(1) There is established an advisory committee to be known as the Cahawba Advisory Committee, composed of 16 members, 15 of whom shall be appointed by the Governor. The Judge of Probate of Dallas County shall be the sixteenth member but shall be a member ex officio and shall not be entitled to a vote on the advisory committee. The members shall serve for terms of seven years each, and the judge of probate shall serve throughout his or her term of office. Members of the advisory committee shall be appointed so that each congressional district is represented by one appointed member on the advisory committee; except, that the congressional district in which Cahawba is situated shall be represented by eight appointed members, five of whom shall be residents of Dallas County and three of whom shall be from some other county in the congressional district. The membership of the advisory committee shall reflect the racial, ethnic, gender, urban/rural, and economic diversity of the state.

(2) The chair shall establish and maintain a bank account on behalf of the advisory committee and draw warrants for any lawful expenditures.

(3) The advisory committee shall advise the Alabama Historical Commission regarding the restoration and the development of the Old Cahawba Capital Site.

(4) The advisory committee shall choose biennially one of its members as chair, one as vice chair, and one as secretary-treasurer.

(5) Advisory committee members shall receive a per diem compensation sum to be fixed by the advisory committee, but the sum shall not be less than one hundred fifty dollars (\$150), for attending official meetings of the advisory committee. The chair may approve the payment for an advisory committee member authorized to perform official duties at other times. Advisory committee members shall receive per diem allowance and travel expenses incurred in attending official meetings or in performing any actual service under the direction of the advisory committee and shall be paid in accordance with Article 2, commencing with Section 36-7-20, of Chapter 7 of Title 36, after approval by the chair.

(6) The secretary-treasurer shall receive such compensation as may be fixed by the advisory committee, which shall be in addition to his or her per diem compensation and payments made under Article 2, commencing with Section 36-7-20, of Chapter 7 of Title 36. The secretary-treasurer shall be paid a sum for clerical expenses fixed by the advisory committee.

(b) The chair of the advisory committee, with the approval of a majority of the committee members, may appoint an executive director. The executive director shall not be a member of the state classified service.

(c) The executive director shall be compensated by a salary payable from any funds available to the advisory committee. The exact amount of the executive director's salary shall be set by the

advisory committee, but in no event shall the salary be less than 60 percent nor more than 75 percent of the amount set as the standard compensation for cabinet level officials of the state.

(d) The executive director may hire an assistant director and such staff, at the pleasure of the executive director, as deemed necessary, with the approval of the advisory committee, but without regard to the state Merit System. The advisory committee shall approve all staff members hired and their job descriptions, and shall set the rate of pay or compensation due the assistant director and other staff.

(e) The advisory committee may permit any employee of the advisory committee to be treated as a state employee for the purpose of participating in any insurance programs and other fringe benefits provided other nonclassified state employees.

(f) It is the duty of the advisory committee, acting through its executive director, assistant director, and staff to perform the following duties:

(1) To provide statewide public awareness, public information, and education services regarding the Old Cahawba Capital Site.

(2) To solicit, collect, and receive funds from the public and private sectors for the support, maintenance, and preservation of the Old Cahawba Capital Site.

(3) To promote and encourage public and private efforts to benefit the Old Cahawba Capital Site project.

(4) To appropriate and expend funds, make grants, contract, cooperate financially or otherwise with the Alabama Historical Commission, Dallas County, and any historical organization, nonprofit corporation, or governmental agency to acquire, establish, maintain, reconstruct, and preserve historical sites in and around Alabama's first permanent Capital at Cahawba, as may be deemed beneficial by the Alabama Historical Commission.

(5) To acquire title, possession, or control of properties and also objects of historic interest associated with or representative of the era of the Old Cahawba Capital Site, but only those located beyond the Old Cahawba Capital Site.

(6) To make grants to the Alabama Historical Commission, Dallas County, and any historical organization, nonprofit corporation, or governmental agency to acquire title, possession, or control of properties or for their preservation, maintenance, reconstruction in, or relocation to Alabama's first permanent Capital at Cahawba.

(7) To lease, gift, sell, or otherwise dispose of any surplus, duplicate, or unused properties.

(g) The executive director, assistant director, and staff shall perform those duties required by the advisory committee necessary to implement this section.

CREDIT(S)

(Acts 1943, No. 486, p. 449; Acts 1959, No. 387, p. 1012; Acts 1961, No. 815, p. 1191; Acts 1975, 3rd Ex. Sess., No. 155, § 3; Acts 1981, 1st Ex. Sess., No. 81-944, § 1; Acts 1982, No. 82-368; Acts 1994, No. 94-703, p. 1357, § 1; Act 2003-401, p. 1167, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1994 amendment, effective May 4, 1994, in subsection (a) substituted "judge of probate" for "probate judge" throughout, in the third sentence, substituted "members" for "trustees" and substituted "seven years" for "four years", in the fourth sentence, substituted "is represented" for "shall be represented", deleted the fifth sentence regarding choosing a secretary, deleted the sixth sentence regarding official offices and storage of records, in the seventh sentence, deleted "of the advisory

committee" preceding "or in performing", in the eighth sentence, substituted "Expenses shall" for "such expenses to" and substituted "approval by the chairperson of the committee" for "the account for such expense has been approved by the judge of probate of Dallas county", deleted the ninth through eleventh sentences regarding the Cahaba Historical Commission, in the twelfth sentence, substituted "chairperson shall" for "judge of probate is authorized to", in the present thirteenth sentence, inserted "Old Cahaba Capitol" and deleted the former thirteenth sentence regarding future appropriations to the Cahaba Historical resources management program; added subsections (b) through (f); and made nonsubstantive changes throughout the section.

The 2003 amendment, effective September 1, 2003, in subsection (a) designated subdivisions (1)-(3), added subdivisions (4)-(6), in subdivision (1) substituted "Cahawba" for "Cahaba" in two places, deleted the fifth sentence and rewrote the final sentence, in subdivision (2) substituted "chair" for "chairperson", and in subdivision (3) substituted "Cahawba Capital" for "Cahaba Capitol"; in subsection (b) substituted "chair" for "chairperson"; in subsection (c) deleted "out of the State Treasury" following "payable" and deleted "in the manner that the salary to other state officials are paid" preceding ". The"; rewrote subsection (e); in subsection (f) in subdivisions (1)-(3) substituted "Cahawba Capital" for "Cahaba Capitol" and added subdivisions (4)-(7); and in subsection (g) substituted "The" for "Additionally, the".


Code Commissioner's Notes

In 1995, the Code Commissioner substituted "members" for "member" in the second sentence of subsection (d) for grammatical purposes.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  45, 46, 60(1), 67, 72.

Corpus Juris Secundum:

C.J.S. States §§ 61, 79-80, 82, 84, 102, 104-108, 120-121, 123, 136-138, 140.

§ 41-9-253. Cahawba Historical Site--Powers of commission; payment of expenses.

Historical Notes References

The Alabama Historical Commission may acquire title, possession, or control of such properties and also of objects of historic interest at the Cahawba Historical Site as it may deem necessary or proper to be maintained, preserved, and protected on behalf of the State of Alabama and may acquire, by purchase, construction, lease, gift, condemnation, or otherwise, lands and rights in land, including leaseholds and easements, and water rights in the rivers and lands adjacent to or in the immediate vicinity of Cahawba. The commission's power of eminent domain may be exercised under Title 18 and any amendments thereto, or pursuant to any other general statutory provision enacted for the exercise of the power of eminent domain. The commission may mark in suitable manner the places or locations of historic interest at such point and prepare and publish for distribution pamphlets or other printed matter with respect thereto. The expenses incurred for such purposes by the historical commission shall be paid out of any appropriation made to the commission, upon warrant drawn by the Comptroller, supported by an itemized account thereof approved by the board of trustees and by the Governor.

CREDIT(S)

(Acts 1943, No. 486, p. 449; Acts 1959, No. 387, p. 1012; Acts 1961, No. 815, p. 1191; Acts 1969, No. 854, p. 1560; Acts 1975, 3rd Ex. Sess., No. 155, § 1; Act 2003-401, p. 1167, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2003 amendment, effective September 1, 2003, deleted ", within its discretion," following "Commission" and substituted "Cahawba" for "Cahaba" in two places.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  67, 72, 85.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 123, 136-138, 140, 145.

§ 41-9-254. Acquisition, operation, etc., of libraries or museums by commission; commission not to engage in publishing or printing of historical quarterlies. [References](#)

The commission shall not accept, acquire, operate or maintain libraries or museums, except when the same are an integral part of one of the properties owned or managed by the commission, nor shall the commission engage in the publishing or printing of historical quarterlies.


CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 12; Acts 1971, No. 500, p. 1213, § 8.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  72, 85.

Corpus Juris Secundum:

C.J.S. States §§ 123, 145.

§ 41-9-255. Alabama State Historic Preservation Fund. [References](#)

There is hereby established in the State Treasury a fund to be known as the "Alabama State Historic Preservation Fund" into which shall be deposited all moneys received by the commission from admissions, inspection fees, gifts, donations, grants, leases, rentals, bequests, loans, governmental appropriations or any other sources, either public or private. Such funds shall be used by the commission to pay the costs of the maintenance, acquisitions, preservation and operation of its acquisitions and for carrying out any and all of the purposes of this division, including the payment of the salaries of any employees of said commission and any expenses of said commission. Money contributed to or deposited in this fund for capital outlay projects and from any source other than state appropriations for operations shall not revert to the General Fund of the state, but shall remain in the

preservation fund until expended by the commission.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 4; Acts 1971, No. 500, p. 1213, § 3.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 45, 67, 72.

Corpus Juris Secundum:

C.J.S. States §§ 79-80, 82, 120-121, 123, 136-138, 140.

§ 41-9-256. Exemption from taxation of commission and properties, income, etc., thereof.

References

The commission, as an agency of the State of Alabama, shall constitute a nonprofit governmental agency and shall have a tax-exempt status, and the properties of the commission and the income therefrom, all lease agreements and contracts made by it shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to, income, admission, amusement, excise, sales, use and ad valorem taxes.

CREDIT(S)

(Acts 1966, Ex. Sess., No. 168, p. 190, § 9.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 67.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 136-138, 140.

§ 41-9-257. Council on Historic Pilgrimages--Created; purpose. [References](#)

There is hereby created the Alabama Council on Historic Pilgrimages, the same to be established under the auspices of the Alabama Historical Commission, said council having the purpose of coordinating the efforts of each of the existing and proposed historic pilgrimages in the State of Alabama, whether publicly or privately sponsored.

CREDIT(S)

(Acts 1975, 4th Ex. Sess., No. 67.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 45.

Corpus Juris Secundum:

C.J.S. States §§ 79-80, 82, 136.

§ 41-9-258. Council on Historic Pilgrimages--Composition. [References](#)

The Council on Historic Pilgrimages shall consist of seven individual members, one being appointed from each of the six districts of the state as the same shall be established by the Alabama Historical Commission and one being a representative of the Alabama Historical Commission. Additionally, there shall be two ex officio individual members, one representing the Alabama Travel Council and one representing the State Bureau of Tourism and Travel.

CREDIT(S)

(Acts 1975, 4th Ex. Sess., No. 67.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒46.

Corpus Juris Secundum:

C.J.S. States §§ 61, 80, 84, 102.

§ 41-9-259. Council on Historic Pilgrimages--Appointment and terms of members; duties.

[References](#)

(a) The individual members of the Council on Historic Pilgrimages who represent the six above described districts shall each be appointed, initially, by the Alabama Historical Commission, and three of the initially appointed members shall serve for terms of one year, with the other three serving for terms of two years each. Subsequent to the initial appointment, future individual members of the council shall be named for terms of two years each, and such future members of the council shall be named by the member historic pilgrimage organizations within the district represented by such council member.

(b) The Council on Historic Pilgrimages shall have the authority to establish such policies as it deems necessary for the carrying out of its purposes and to admit as general nonvoting members of the council such organizations in the State of Alabama engaged in the business of historic pilgrimages as it may, in its discretion, determine.

(c) The council shall have among its duties the duty to work closely with the Alabama Travel Council and the State Bureau of Tourism and Travel, and such organizations shall, themselves, provide assistance and advice to the Council on Historic Pilgrimages.

CREDIT(S)

(Acts 1975, 4th Ex. Sess., No. 67.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  46, 67, 72.

Corpus Juris Secundum:

C.J.S. States §§ 61, 80, 84, 102, 120-121, 123, 136-138, 140.

§ 41-9-260. Transfer to commission of certain parts of Fort Morgan Military Reservation, etc.; development, restoration, etc., thereof by commission; operation of portion of reservation retained by Department of Conservation and Natural Resources. All of that part of the Fort Morgan Military Reservation lying within the Fort Morgan Military Reservation conveyed from the United States of America to the State of Alabama by quitclaim deed executed May 26, 1927, and on which Fort Morgan itself is located, and also a certain part of the Fort Morgan Military Reservation conveyed by the United States of America to the State of Alabama by deed executed December 16, 1946, including all that area south of the outer south face of the east-west sea wall and west of the north-south sea wall, is hereby transferred to the Alabama Historical Commission. All other property, both real and personal, including structures and objects located on either of said tracts of land, owned by the Fort Morgan Historical Commission and all of its powers, authority and jurisdiction over said property are also hereby transferred to the Alabama Historical Commission, and any right, title or interest which the state Department of Conservation and Natural Resources has in the above described property is also hereby transferred to the Alabama Historical Commission.

Such commission shall have full authority to develop, renovate, restore, preserve, maintain, operate, exhibit and publicize the above described properties in accordance with the powers and responsibilities of said Alabama Historical Commission.

Any right, title or interest of the Department of Conservation and Natural Resources in all that part of the Fort Morgan Military Reservation not hereinabove transferred to the Alabama Historical Commission shall continue to be held by the state Department of Conservation and Natural Resources, and all such property may be used as a public park for recreation, such as camping, boating, fishing and any other purposes for which the Department of Conservation and Natural Resources is authorized to maintain and operate a public park. The paved road that runs south at the sea wall shall, however, be open for use by vehicles for ingress and egress to the beach, and the Department of Conservation and Natural Resources shall not prohibit camping on any part of the reservation under their jurisdiction and control.

CREDIT(S)

(Acts 1976, No. 628, p. 865.)

§ 41-9-261. Designation of commission as agency responsible for restoration and preservation of State Capitol; powers and duties. [Historical Notes](#) [References](#)

(a) The primary restoration, planning and preservation responsibility for the State Capitol of Alabama and its contiguous historic grounds, designated by the United States government as a national historic landmark, is hereby delegated to the Alabama Historical Commission.

(b) The Alabama Historical Commission is instructed to protect the historic and architectural integrity of this historic Greek revival masterpiece which served as the first Capitol of the Confederacy in 1861 and has served as the Capitol of Alabama for more than 120 years.

(c) The agencies of the state of Alabama charged with architectural, engineering, maintenance and alteration responsibilities for the State Capitol shall submit plans and specifications to the Alabama Historical Commission which shall review them for the retention of the historic merit and architectural integrity of the landmark prior to any adaptive or construction activities.

(d) The commission shall be authorized and empowered to promote and preserve the historic character and architectural purity of the Capitol building and grounds and, to that end, it shall exercise its authority, control and general supervisory jurisdiction over the Capitol grounds, including walkways and driveways, and over all public areas within the Capitol building, including the outer office of the executive suite. Such authority shall specifically include, but not be limited to, the corridors, rotundas, lobbies, entranceways, stairways, restrooms, porticos, steps and elevators. The commission shall have no jurisdiction over the areas used for private office space, except as to structural modifications, but shall have jurisdiction over all areas specified in this section, and any and all changes contemplated, whether they be architectural in nature or merely the moving or replacement of furniture and furnishings, shall first require the approval of the commission.

With respect to the legislative chambers, legislative lounges and legislative meeting rooms, the commission shall be authorized and empowered to advise and consult with the Clerk of the House and the Secretary of the Senate and the presiding officer, respectively, and to suggest and recommend changes and renovations within such spaces that would be appropriate and in keeping with the preservation of the historic value and architectural purity therein; provided, however, that no changes or renovations to the said chambers, lounges or meeting rooms shall be undertaken or initiated without the approval of the Clerk of the House or the Secretary of the Senate and the presiding officer, respectively; provided further, that no changes or renovations to the Capitol building and grounds as defined in this section, other than the legislative chambers, legislative lounges and legislative meeting rooms provided for in the preceding provisions of this sentence, shall be undertaken or initiated without the approval of the Governor.

(e) Nothing in this section shall be construed as to supersede any authority of the state Building Commission and, if so, that portion is expressly repealed.

CREDIT(S)

(Acts 1969, No. 1148, p. 2153, § 2; Acts 1976, No. 634, p. 881.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

The provisions of subsection (d) of this section were formerly codified as former § 41-9-512. For reasons for transfer, see code commissioner's note to former § 41-9-512.

REFERENCES

CROSS REFERENCES

As to State Building Commission generally, see § 41-9-140 et seq.

As to State Capitol Advisory Committee generally, see § 41-9-510 et seq.

§ 41-9-262. Fort Tombeckbee Historical Advisory Board. [References](#)

(a) An advisory board to be known as the Fort Tombeckbee Historical Advisory Board is hereby authorized to be appointed by the Governor for the purpose of advising the Alabama Historical Commission on the acquisition, maintenance and protection of certain properties and objects of historical interest at Fort Tombeckbee in Sumter county. Said board shall be composed of three members, and the first appointees shall be appointed to serve for terms of two, four and six years, respectively, and subsequent appointees shall serve for terms of four years. Such members shall serve

without compensation.

(b) Said board shall advise the Alabama Historical Commission: To acquire title, possession or control of such properties and also of objects of historic interest at Fort Tombeckbee as it may deem necessary or proper, to be maintained, preserved and protected on behalf of the State of Alabama; to mark in suitable manner the places or locations of historic interest at such point; and to prepare and publish for distribution pamphlets or other printed matter with respect thereto. The Alabama Historical Commission may, in its complete discretion, act upon any suggestions or advice of the advisory board. Any expenses incurred by the board shall be paid out of any money appropriated by the Legislature or by any gift, bequest or grant from whatever source.

CREDIT(S)

(Acts 1978, No. 516, p. 571.)

REFERENCES

CROSS REFERENCES

As to board of advisors of commission generally, see § 41-9-246.

REFERENCES

LIBRARY REFERENCES

62 C.J.S. Municipal Corporations § 225.

§ 41-9-263. Sunset provision. [Historical Notes](#)

The Alabama Historical Commission is subject to the Alabama Sunset Law, Chapter 20, Title 41, as an enumerated agency pursuant to Section 41-20-3, and shall have a termination date of October 1, 2007, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

CREDIT(S)

(Act 2006-151, p. 222, § 3.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective March 6, 2006.

DIVISION 3A. . UNDERWATER CULTURAL RESOURCES.

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this division is effective September 1, 1999.

REFERENCES

ADMINISTRATIVE CODE

ANNOTATIONS

CASENOTES

Generally 1

1. Generally

No justiciable controversy was presented by declaratory judgment complaint against executive director of Alabama Historical Commission (AHC) by citizen who apparently wished to scuba dive for relics in state waters and who challenged constitutionality of statutes and procedures for preservation of state's cultural resources; whether citizen might make such dives, whether he might find any protected relics or artifacts, and whether the AHC might deny him permits to do so amounted to no more than an anticipated controversy. Ex parte Bridges, 925 So.2d 189 (Ala.2005).
Declaratory Judgment ☒ 124.1

§ 41-9-290. Short title. [Historical Notes](#) [References](#)

This division shall be known as and may be cited as the "Alabama Underwater Cultural Resources Act."

CREDIT(S)

(Act 99-595, p. 1364, § 1.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 45.

Corpus Juris Secundum:

C.J.S. States §§ 79-80, 82, 136.

REFERENCES

RESEARCH REFERENCES

Treatises and Practice Aids

Alabama Rules of Civil Procedure Annotated Rule 57, Declaratory Judgments.

Criminal Offenses and Defenses in Alabama § T200, Theft or Disturbance of a Cultural Resource.

Tilley's Alabama Equity § 4:8, Non-Justiciable Controversy.

§ 41-9-291. Definitions. [Historical Notes](#) [References](#)

As used in this division, the following terms shall have the following meanings:

(1) Commission. The Alabama Historical Commission, acting as the custodian of cultural resources for the State of Alabama.

(2) Contractor. Any individual, company, corporation, or private or public institution determined by the commission to be appropriately qualified, that has applied for and received a permit or contract from the commission to begin exploration or excavation activities in state-owned waters.

(3) Cultural resources. All abandoned shipwrecks or remains of those ships and all underwater archaeological treasures, artifacts, treasure troves, or other cultural articles and materials, whether or not associated with any shipwreck, that are contained in or on submerged lands belonging to the State of Alabama and the sea within the jurisdiction of the state, and that have remained unclaimed for more than 50 years, excluding therefrom sunken logs, cants, and timber resources of any other type not associated as part of a shipping vessel, and are eligible for, or listed in, the National Register of Historic Places or the Alabama Register of Landmarks and Heritage.

(4) Excavation. The study and intentional removal from submerged land belonging to the state, by accepted scientific methods, of any objects recognized as cultural resources.

(5) Exploration. The systematic examination by actual survey of an area of submerged land belonging to the state for the purpose of locating and recognizing cultural resources.

(6) Submerged lands. Lands under navigable waterways owned or controlled by the State of Alabama.

(7) Treasure trove. Any gold bullion, gold ingots, gold dust, silver bars, and other precious metals or stones.

CREDIT(S)

(Act 99-595, p. 1364, § 2.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

Code Commissioner's Notes

In 1999, the Code Commissioner in subdivision (2) after "corporation", inserted "or" to correct a manifest grammatical error.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States 45.

Corpus Juris Secundum:

C.J.S. States §§ 79-80, 82, 136.

REFERENCES

RESEARCH REFERENCES

Treatises and Practice Aids

Criminal Offenses and Defenses in Alabama § T200, Theft or Disturbance of a Cultural Resource.

§ 41-9-292. Use of state cultural resources. [Historical Notes](#) [References](#)

(a) All cultural resources as defined herein are declared to be state cultural resources subject to the exclusive dominion and control of the State of Alabama.

(b) Cultural resources shall not be taken, damaged, destroyed, salvaged, excavated, or otherwise altered without a prior contract or permit obtained through the commission, which is designated as the official custodian of state cultural resources within the jurisdiction of the State of Alabama; provided, however, that issuance of any contract or permit shall also be subject to the prior written approval of the Commissioner of Conservation and Natural Resources.

CREDIT(S)

(Act 99-595, p. 1364, § 3.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  85, 88.

Corpus Juris Secundum:

C.J.S. States §§ 145, 147.

§ 41-9-293. Management plan; rules and regulations. [Historical Notes](#) [References](#)

(a) The commission, in coordination with the Department of Conservation and Natural Resources, shall develop and implement a management plan for cultural resources. The commission may appoint an advisory committee to assist the commission in the development and implementation of a management plan for cultural resources, and to advise the commission with respect to needed rules or regulations. The commission, in coordination with the Department of Conservation and Natural Resources, may promulgate, in accordance with the state Administrative Procedure Act and in the best interest of the state, any rule or regulation necessary to implement this division; provided however, that the rules and regulations shall be subject to the approval of the director of the commission and the Commissioner of Conservation and Natural Resources. The rules and regulations shall have the force and effect of law.

(b) These regulations shall include, but not be limited to, any of the following:

(1) The classification of historic maritime and submerged resources.

(2) Contracting or permitting for various activities.

(3) Establishing a repository or repositories for holding the ships, artifacts, treasure troves, or other cultural artifacts and materials recovered in the areas stipulated in this division.

(4) Methods of enforcement of this division and rules and regulations promulgated hereunder.

CREDIT(S)

(Act 99-595, p. 1364, § 4.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 46, 67, 76.

Corpus Juris Secundum:

C.J.S. States §§ 61, 80, 84, 102, 120-121, 136-138, 140, 229.

§ 41-9-294. Permit, etc., for exploration or excavation. [Historical Notes](#) [References](#)

(a) Any qualified individual, company, corporation, or public institution desiring to conduct any type of exploration or excavation of cultural resources shall first make application to the commission for a permit or contract to conduct the operation. If the commission finds that the granting of a permit or contract is in the best interest of the state, it may, subject to the other provisions of this division, grant the applicant a permit or contract for a period of time and under those terms and conditions as the commission considers to be in the best interest of the state.

(b) Holders of permits or contracts shall be responsible for obtaining permission of any federal agencies having jurisdiction, including, but not limited to, the United States Department of the Navy and the United States Army Corps of Engineers, prior to conducting those activities.

(c) Permits or contracts may be issued or made for any of the following activities, without limitation:

- (1) Recreational diving permit or contract.
- (2) Exploration and evaluation permit or contract.
- (3) Excavation and recovery permit or contract.

CREDIT(S)

(Act 99-595, p. 1364, § 5.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 67, 72, 87.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 123, 136-138, 140, 146.

REFERENCES

RESEARCH REFERENCES

Treatises and Practice Aids

Criminal Offenses and Defenses in Alabama § T200, Theft or Disturbance of a Cultural Resource.

§ 41-9-295. Commercial fishing restrictions. [Historical Notes](#) [References](#)

The commission may restrict, when necessary, as determined in writing in the sole discretion of the Commissioner of Conservation and Natural Resources, the activities of commercial fishing vessels in or around known underwater cultural resources when the likelihood of damage to or any alterations of the cultural resources is deemed evident. The restricted area shall encompass only the immediate area of the resource so as not to unduly disrupt fishing operations.

CREDIT(S)

(Act 99-595, p. 1364, § 6.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  67.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 136-138, 140.

§ 41-9-296. Distribution of funds. [Historical Notes](#) [References](#)

(a) Any funds received by the commission under the terms and conditions of permits or contracts made pursuant to this division shall be placed in funds maintained in the State Treasury.

(b) The commission shall, pursuant to its rulemaking power, provide a procedure for the sale at public auction of any articles seized pursuant to this division, with the proceeds going to the State General Fund to be appropriated by the Legislature.

CREDIT(S)

(Act 99-595, p. 1364, § 7.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 72, 76, 121.

Corpus Juris Secundum:

C.J.S. States §§ 123, 203, 223, 229.

§ 41-9-297. Theft or disturbance of a cultural resource. [Historical Notes](#) [References](#)

(a) A person commits the crime of theft or disturbance of a cultural resource protected by the commission if the person does either of the following:

(1) Intentionally and knowingly removes, alters, disturbs, or destroys any cultural resource without the prior written authorization of the commission by permit or contract.

(2) Knowingly buys, receives, conceals, aids in the concealment of, or possesses any illegally obtained cultural resources.

(b) Intentional and knowing theft or disturbance of a cultural resource having a value of less than one thousand dollars (\$1,000) shall constitute a Class A misdemeanor and be punishable, upon conviction, as provided by law.

(c) Intentional and knowing theft or disturbance of a cultural resource with a value of one thousand dollars (\$1,000) or more shall constitute a Class C felony and shall be punishable, upon conviction, as provided by law.

CREDIT(S)

(Act 99-595, p. 1364, § 8.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

Code Commissioner's Notes

In 1999, the Code Commissioner in subdivision (2) of subsection (a) deleted "as defined in subsection (a)" because the language was surplusage.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 67.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 136-138, 140.

REFERENCES

RESEARCH REFERENCES

Treatises and Practice Aids

Criminal Offenses and Defenses in Alabama § T200, Theft or Disturbance of a Cultural Resource.

§ 41-9-298. Seizure of equipment, etc. [Historical Notes](#) [References](#)

In all cases of arrest and conviction under Section 41-9-297, all boats, instruments, and other equipment used directly in connection with the offenses are declared to be contraband and shall be seized and brought before the court having jurisdiction of the offense for proper disposal.

CREDIT(S)

(Act 99-595, p. 1364, § 9.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States 72.

Corpus Juris Secundum:

C.J.S. States § 123.

REFERENCES

RESEARCH REFERENCES

Treatises and Practice Aids

Criminal Offenses and Defenses in Alabama § T200, Theft or Disturbance of a Cultural Resource.

§ 41-9-299. Enforcement of division. [Historical Notes](#) [References](#)

All law enforcement agencies and officers, state and local, shall assist the commission in the enforcement of this division.

CREDIT(S)

(Act 99-595, p. 1364, § 10.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States 72.

Corpus Juris Secundum:

C.J.S. States § 123.

§ 41-9-299.1. Exceptions. [Historical Notes](#) [References](#)

(a) Notwithstanding any other provisions of this division to the contrary, no contract with or permit from or fee paid to the commission shall be required for activities performed pursuant to United States Army Corps of Engineers' permits, including general permits.

(b) Notwithstanding any other provisions of this division to the contrary, any violation of this division caused by activities conducted for purposes not related to the exploration, excavation, or salvaging of cultural resources may be cured and any otherwise applicable crimes, penalties, or seizures will no longer apply if the activities in violation of this division are halted as soon as practicable after notice from the commission and an application for any contract or permit determined to be necessary is submitted to the commission.

CREDIT(S)

(Act 99-595, p. 1364, § 11.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States ☒ 67, 93.

Corpus Juris Secundum:

C.J.S. States §§ 120-121, 136-138, 140, 156.

REFERENCES

RESEARCH REFERENCES

Treatises and Practice Aids

Criminal Offenses and Defenses in Alabama § T200, Theft or Disturbance of a Cultural Resource.

§ 41-9-299.2. Construction of division. [Historical Notes](#) [References](#)

This division shall be construed in pari materia with Section 41-9-249.1.

CREDIT(S)

(Act 99-595, p. 1364, § 13.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective September 1, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:

States  45.

Corpus Juris Secundum:

C.J.S. States §§ 79-80, 82, 136.

REFERENCES

RESEARCH REFERENCES

Treatises and Practice Aids

Criminal Offenses and Defenses in Alabama § T200, Theft or Disturbance of a Cultural Resource.

Historic Sites Administered by the Commission

Thirteen (13) historic properties are owned or managed by the commission and used for interpreting Alabama's history to the public. These properties include:

- Alabama State Capitol in Montgomery
- Belle Mont – Jeffersonian house in Tusculum (has one full-time staff member with assistance from Pond Spring staff when needed)
- Cahawba Park – Site of former state capitol at Cahaba
- Confederate Memorial Park and Cemetery – Chilton County
- Fendall Hall – Antebellum Italianate house in Eufaula
- Fort Mims – Baldwin County - Site of 1813 Fort Mims Indian battle; (not staffed)
- Dr. Francis Medical Museum – 1800's medical office and apothecary shop in Jacksonville (not staffed; open by appointment with local group)
- Gaineswood – Antebellum Greek Revival mansion in Demopolis
- Old Greyhound Bus Station in Montgomery (not open; has an exhibit to be viewed from the street)
- Magnolia Grove – Antebellum historic house in Greensboro
- Pond Spring – Home of Confederate General Joe Wheeler in Hillsboro (currently closed; expected to open in 2011)
- Fort Morgan – Mobile Bay fort - 1834
- Fort Toulouse/Fort Jackson – 1700's Reconstruction of French fort in Elmore County

The commission owns or manages an additional twelve (12) properties.

Four (4) properties are used for Alabama Historical Commission offices or rental office space. These properties are:

- Rice-Semple-Hardt House – Montgomery (used as AHC main office)
- Teague House - Montgomery (used as AHC main office)
- John Tyler Morgan House – Antebellum House – Selma (used as Old Cahawba staff office)
- Tardy Cottage - Mobile (in process of being transferred to the City of Mobile)

Three (3) properties are held for the purposes of protection but are not generally accessible to the public because of their locations. These properties are:

- Bottle Creek Mounds – Indian mounds in Baldwin County.
- Middle Bay Lighthouse – Mobile Bay
- Forks of Cypress – Plantation in the Florence vicinity

Three (3) properties were acquired to support interpretation of existing sites and will be opened as funding becomes available. These properties, and their expected uses, are:

- St. Luke's Church – to be moved to Old Cahawba
- Kelly House – to be moved to Old Cahawba
- Moore Building – to be adapted as visitor center for Montgomery Bus Station

The Commission routinely acquires and holds historic places in need of protection and maintains them until appropriate owners can be found. Currently, the Alabama Historical Commission holds two (2)

such properties which will ultimately be sold with protective easements to appropriate owners. These properties are:

- Greenwood - Greensboro - sold with restrictive covenants and easements held by the Historical Commission.
- South Perry Street Apartments - Montgomery

Commission Members



STATE OF ALABAMA
ALABAMA HISTORICAL COMMISSION
468 SOUTH PERRY STREET
MONTGOMERY, ALABAMA 36130-0900

FRANK W. WHITE
EXECUTIVE DIRECTOR

April 29, 2010

TEL: 334-242-3184
FAX: 334-240-3477

Mr. Glenn A. Davis
Examiner of Public Accounts
P. O. Box 302251
Montgomery, Alabama 36130-2251

Dear Mr. Davis:

Enclosed you will find a current listing of each Commission member.

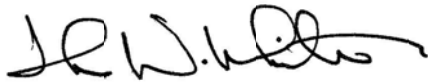
Commissioner	Appointment Date	Expiration Date	Year (s) Served
<u>Ann Bedsole, Secretary 08-10</u> Mobile, AL	3/2007	10/2012	07-08 08-09 09-10
<u>Daniel D. Bennett, Vice Chairman 07-08</u> <u>Chairman 09-10</u> Auburn, AL	4/2003	4/2015	07-08 08-09 09-10
<u>Tommy Boswell</u> Phenix City, AL	10/2009	10/2010	09-10
<u>Edwin C. Bridges</u> Montgomery, AL	Upon Hire	Indefinite	
<u>J. Danny Cooper</u> Montgomery, AL	4/2004	1/2010	07-08 08-09
<u>William F. Denson, III, Treasurer 08-10</u> Birmingham, AL	3/2007	11/2011	07-08 08-09 09-10
<u>Dr. Ralph Draughon, Jr.</u> Auburn, AL	11/2007	4/2012	07-08 08-09 09-10
<u>Honorable Jim Folsom, Lieutenant Governor</u> <u>James Hammonds (LT. Gov. Representative)</u> Montgomery, AL	Upon Hire	Indefinite	

THE STATE HISTORIC PRESERVATION OFFICE
www.preserveala.org

<u>Dr. Shirley Foster</u> Tuscaloosa, AL	7/2009	7/2012	09-10
<u>Seth Hammett, Speaker of the House</u> <u>Julie Lindsey (Speaker Representative)</u> Montgomery, AL	Upon Hire	Indefinite	
<u>Barnett Lawley</u> Montgomery, AL	Upon Hire	Indefinite	
<u>Katherine Lynn</u> Montgomery, AL	Upon Hire	Indefinite	
<u>Josh Mandell</u> Montgomery, AL	12/2008	1/2014	08-09 09-10
<u>Diane McCool</u> Gordo, AL	1/2009	1/2014	09-10
<u>Honorable Bob Riley, Governor</u> <u>Elaine LeFleur (Governors Representative)</u> Montgomery, AL	Upon Hire	Indefinite	
<u>Guin Robinson</u> Birmingham, AL	7/2009	1/2011	09-10
<u>Dr. Karen Rogers</u> Auburn, AL	7/2009	5/2015	09-10
<u>Elizabeth Sanders</u> Mobile, AL	12/2008	5/2012	08-09 09-10
<u>Dr. John Schmidt</u> Troy, Alabama	3/2010	1/16	
<u>Lee Sentell</u> Montgomery, AL	Upon Hire	Indefinite	
<u>Craig Sheldon Vice Chairman 08-10</u> Montgomery,	2/1997	12/2014	
<u>Frank White, Executive Director</u> Montgomery, Alabama	1/2008		
<i>There are currently no vacancies</i>			

If you need additional information pertaining to AHC Commissioners and or officials, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. W. White', with a stylized flourish at the end.

Frank W. White,
Executive Director

COMMISSION RESPONSE TO SIGNIFICANT ISSUES



STATE OF ALABAMA
ALABAMA HISTORICAL COMMISSION
468 SOUTH PERRY STREET
MONTGOMERY, ALABAMA 36130-0900

FRANK W. WHITE
EXECUTIVE DIRECTOR

TEL: 334-242-3184
FAX: 334-240-3477

June 30, 2010

Mr. John Norris
Director, Operational Division
P O Box 302251
Montgomery, AL 36130

Dear Mr. Norris:

Attached are the Alabama Historical Commission responses to the significant items in your letter dated June 10, 2010.

Sincerely,

Frank W. White
Executive Director

SUNSET MEETING RESPONSES

June 30, 2010

Finding # 1:

AHC faces unknown future liabilities due to its land ownership at Fort Morgan

RESPONSE

The issues are complicated and there is a difference of opinion as to whether or not the AHC will be responsible for paying our share (.01%) of the cost to abandon the wells. The AHC is annually setting aside funds to cover final abandonment costs. We will investigate the feasibility of developing an agreement with Exxon to withhold some of AHC's share of revenues as it is earned rather than having to anticipate a final payout sometime in the future.

Finding #2:

The commission does not invest funds held in its Historic Preservation Investment fund (Fund #0785) although the commission apparently has the authority to do so.

RESPONSE

These funds are invested by Alabama's Treasurer and the income goes into the general fund. The majority of these funds, a portion of which are from oil and gas royalties, are obligated for capital expenditures at our historic sites. A portion of these funds are annually being set aside to pay future costs of abandoning the wells. Because we follow state contracting procedures, it can take several years to expend obligated funds. We currently have \$10 million in capital projects underway or committed. We will work with the Treasurer's office to determine the advisability of investing these funds ourselves.

Prior Finding:

An apparent continuing shortage of funds for preservation and utilization of state-owned / operated historic sites.

RESPONSE

The AHC has never received sufficient general fund monies to perform even basic maintenance for our historic sites. Nonetheless, in the past decade we have made dramatic improvements in the condition of our sites. We have been aggressive and successful in acquiring outside

monies to address decades of deferred maintenance. We have elected to use our gas and oil money, an unpredictable and variable revenue stream, to fund capital improvements—using one-time money for one-time needs. Work is currently underway at Fort Morgan to address the most critical structural repairs at the brick fort, with \$1.2 million allocated for the first phases. Since 2005 we have spent or have current commitments for \$2.6 million in capital improvements at Fort Morgan, with less than 2% of those funds coming from the general fund. We have painted all the buildings and replaced most of the roofs, repaired the fishing pier, and begun work on restoring the First Sergeants' House and adapting it for an upgraded snack bar. At Fort Morgan and at other sites, we have greatly reduced labor costs by working with the Department of Corrections, training inmates in high-skill, high-wage jobs, and providing income to another state agency. We continue to investigate alternative ownership/management agreements and to look for ways to operate our sites more efficiently. We work with friends groups and volunteers to provide educational programs and interpretation, keep our sites open to the public, and generate funds from rentals and events. In 2009, we had nearly 12,600 volunteer hours, more than double previous years. We have also increased our earned income through better marketing and merchandizing.

But weather emergencies, the economic downturn, and the oil spill are greatly affecting our revenues. Continued support is needed to complete restoration projects, and to properly maintain and interpret our historic sites. These places serve as outdoor classrooms for our schools and generate tourist dollars that translate into increased state and local revenues.